

Page 110

1           IN THE UNITED STATES COURT  
2           NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4  
5           ~ ~ ~ ~ ~  
6   IN RE: NATIONAL PRESCRIPTION      MDL NO. 2804  
7   OPIATE LITIGATION

8    Case no.  
9    17-mdl-284  
10   Judge Dan Polster

11  
12   This document relates to:

13   The County of Summit, Ohio, et al.,  
14    v.

15   Purdue Pharma L.P., et al.,  
16   Case No. 1:18-OP-45090 (N.D. Ohio)

17    ~ ~ ~ ~ ~  
18    Continued deposition of  
19    PATRICK LEONARD, VOLUME II

20    PORTIONS OF THE TRANSCRIPT ARE DESIGNATED

21    CONFIDENTIAL

22    March 27, 2019

23    11:03 a.m.

24    Taken at:

25    Ulmer & Berne  
  1660 W. Second Street  
  Cleveland, Ohio  
  Wendy L. Klauss, RPR

Page 111

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## TRANSCRIPT INDEX

APPEARANCES: . . . . .	111
INDEX OF EXHIBITS . . . . .	115
EXAMINATION OF PATRICK LEONARD	
By Mr. Roman. . . . .	117
By Mr. Winkelman. . . . .	176
By Mr. Moylan. . . . .	245
By Mr. Goldstein. . . . .	290
By Mr. Moylan. . . . .	342
REPORTER'S CERTIFICATE. . . . .	346
EXHIBIT CUSTODY	
EXHIBITS RETAINED BY COURT REPORTER.	

Veritext Legal Solutions

Page 115

	INDEX OF EXHIBITS	
	NUMBER	DESCRIPTION
		MARKED
1		INDEX OF EXHIBITS
2		NUMBER
3	Exhibit 7	Previously Marked, ..... 132 Designated Confidential, Email Chain, Beginning with Bates Label AKRON 000368766
4		
5	Exhibit 9	Designated Confidential, ..... 130 Email Chain, with Attachment, Beginning with Bates Label AKRON 001163442
6		
7	Exhibit 10	A Three-Page Document ..... 142 Printed Off of the Justice Department DEA Diversion Control Division Website on November 25 of 2018
8		
9		
10	Exhibit 11	Designated Confidential, .... 169 Multi-Page Document Bearing Production Numbers AKRON 001135275 through 5406
11		
12		
13	Exhibit 12	Designated Confidential, .... 186 Email Chain, Subject: Expert Witness, Beginning with Bates Label AKRON 001142305
14		
15		
16	Exhibit 13	Designated Confidential, .... 190 6-30-2014 Email Chain, with Attachment, Beginning with Bates Label SUMMIT 001233671
17		
18	Exhibit 14	Designated Confidential, .... 218 Email Chain, Beginning with Bates Label AKRON 000367833
19		
20	Exhibit 15	2014 Final Rule Rescheduling . 247 of Hydrocodone Combination Products from Schedule III to Schedule II
21		
22		
23	Exhibit 16	Designated Confidential, .... 249 9-25-2010 Email, Bates Label AKRON 001142381
24		
25	Exhibit 17	Designated Confidential, .... 255 11-05-2010 Email, Bates Label AKRON 000368237

Page 116

1	Exhibit 18	Designated Confidential, .... 257 4-11-2011 Email, Bates Label AKRON 001142386
2	Exhibit 19	Harper Search Warrant..... 257
3	Exhibit 20	Spreadsheet From the Ohio .... 262 Board of Medicine
4	Exhibit 21	License Look Up, Adolph ..... 266 Harper
5	Exhibit 22	Press Release From U.S. ..... 267 Attorney's Office For the Northern District of Ohio
6		From February 1, 2015
7	Exhibit 23	Designated Confidential, .... 292 1-16-2013 Email, Bates Labeled AKRON_000368456
8	Exhibit 24	Designated Confidential, .... 293 Protected Health Information, Patient Deaths Associated with Dr. Harper, Beginning with Bates Labeled AKRON 000368457
9	Exhibit 25	Federal Register, Volume 80, . 311 Number 138, Monday, July 20, 2015/Notices
10	Exhibit 26	Indictment for Dr. Harper..... 318
11	Exhibit 27	Newspaper Article Concerning . 322 Dr. Gregory Ingram
12	Exhibit 28	Designated Confidential, .... 329 National Diversion Survey Questionnaire, Beginning with Bates AKRON 000370688
13	Exhibit 29	Designated Confidential, .... 336 7-25-2011 Email, Beginning with Bates AKRON 000368263
14		
15		
16		
17		
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22		
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1                   PATRICK LEONARD, of lawful age,  
2        called for examination, as provided by the  
3        Statute, being by me first duly sworn, as  
4        hereinafter certified, deposed and said further  
5        as follows:

6                   EXAMINATION OF PATRICK LEONARD  
7        BY MR. ROMAN:

8                   MR. ROMAN: Why don't we go ahead  
9        and do introductions. Jim, do you want to  
10      start?

11                  MR. LEDLIE: Sure. I'm James  
12        Ledlie, from the Motley Rice law firm, on  
13        behalf of the City of Akron and Summit County,  
14        and I'm joined by Caroline Rion, also from  
15        Motley Rice, and this is a continuation of the  
16        deposition.

17                  MR. BENNETT: James Bennett, on  
18        behalf of the Department of Justice, United  
19        States Drug Enforcement Administration, from  
20        the U.S. Attorney's Office in Cleveland.

21                  MR. CIPRIANI: John Cipriani, from  
22        the Drug Enforcement Administration.

23                  MS. BACCHUS: Renee Bacchus,  
24        Assistant United States Attorney, on behalf of  
25        the United States Drug Enforcement

Page 118

1       Administration, DEA, and the U.S. Attorney's  
2       Office.

3                     MS. OCHMAN: Patricia Ochman, Jones  
4                     Day, for Walmart.

5                     Mr. MOYLAN: Daniel Moylan,  
6                     Zuckerman Spaeder, for CVS.

7                     MR. SCHOCK: Andrew Schock, Jackson  
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9                     MR. WHITESELL: Jeff Whitesell,  
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11                  Johnson and Janssen.

12                  MR. MILLER: Hayden Miller, Ropes &  
13                  Gray, on behalf of Mallinckrodt LLC and SpecGx  
14                  LLC.

15                  MR. GOLDSTEIN: Josh Goldstein,  
16                  Ropes & Gray, on behalf of Mallinckrodt LLC.

17                  MR. WINKELMAN: Steven Winkelman,  
18                  Covington & Burling, on behalf of McKesson  
19                  Corporation.

20                  MR. ROMAN: And Neil Roman,  
21                  Covington & Burling, also on behalf of  
22                  McKesson. I think we're out of time.

23       BY MR. ROMAN:

24       Q.       How are you, Det. Leonard?

25       A.       I'm fine. Yourself?

1 Q. Good. Thank you.

2 Any reason you can't give complete  
3 and truthful testimony today?

4 A. No.

5 Q. Did you review the transcript of  
6 the deposition that we took on January 31?

7 A. I did a couple weeks ago, yes.

8 Q. Is there anything in there that you  
9 would like to change or alter or amend in any  
10 way?

11 A. Actually, there is one. At one  
12 point I said that the Dr. Harper case was  
13 turned over to the DEA. It was never turned  
14 over. A joint case was opened. It was still  
15 an Akron case. It was a dual case. It wasn't  
16 actually given to the DEA as theirs and not the  
17 City of Akron.

18 Q. Any other changes you wanted to  
19 make?

20 A. No, sir.

21 Q. Have you done anything to prepare  
22 for your resumed deposition today?

23 A. I have met with counsel and I have  
24 met with United States Government attorneys.

25 Q. How many meetings have you had with

Page 120

1           counsel and the United States attorneys?

2           A.       Probably three, two with U.S.  
3           attorneys and one with counsel.

4           Q.       Okay. By counsel, you are  
5           referring to Mr. Ledlie?

6           A.       Yes, sir.

7           Q.       Okay. When did you meet with Mr.  
8           Ledlie?

9           A.       Besides today, I don't know, it's  
10          been a couple weeks ago. I don't remember when  
11          it was.

12          Q.       Was anybody else present when you  
13          spoke with Mr. Ledlie?

14          A.       No.

15          Q.       Was anybody on the phone when you  
16          spoke with Mr. Ledlie?

17          A.       I do not recall.

18          Q.       More than half a day or less than  
19          half a day?

20          A.       Less than half a day.

21          Q.       And how about the United States,  
22          who -- what attorneys from the United States  
23          have you talked with in preparation for your  
24          testimony today?

25          A.       That are in the room here, Mr.

1 Bennett and Mr. Cipriani.

2 Q. When was the first time you talked  
3 to Mr. Bennett and Mr. Cipriani?

4 A. I don't have dates, sir. I don't  
5 know.

6 Q. A couple weeks ago?

7 A. We spoke this past Monday, and we  
8 have exchanged emails with Mr. Cipriani a  
9 couple of times since then.

10 Q. Was anybody else present when you  
11 spoke with them?

12 A. Renee, Ms -- I'm sorry. I don't  
13 remember Renee's last name -- Bacchus was there  
14 on Friday as well -- or Monday as well.

15 Q. Okay. Anybody besides those three,  
16 at any point?

17 A. No, sir.

18 Q. And nobody on the phone or anything  
19 like that?

20 A. No, sir.

21 Q. And what was the total amount of  
22 time that you have spoken to attorneys for the  
23 United States in preparation for your testimony  
24 today?

25 A. About two hours in -- I correct

1       that. Mr. Ledlie was on the phone on Monday  
2       with us.

3           Q.     Anybody else?

4           A.     No.

5           Q.     Have you discussed the expected  
6       substance of your testimony today with anyone  
7       other than the folks you have identified so  
8       far?

9           A.     No, sir.

10          Q.     Have you reviewed any deposition  
11       transcripts, other than your own, in  
12       preparation for your testimony today?

13          A.     No, sir, I have not.

14          Q.     Have you done anything else to  
15       prepare for your testimony today, other than  
16       what you have so far described?

17          A.     No, sir.

18          Q.     Okay. So I believe that the way we  
19       left it last time is you took us up to about  
20       February of 2012, and that's when you started  
21       working for the DEA tactical diversion squad,  
22       correct?

23          A.     Yes, sir.

24          Q.     And if I use the acronym TDS, you  
25       will understand what that refers to?

Page 123

1 A. Yes, sir.

2 Q. The diversion squad, right?

3 A. Correct.

4 Q. And are you still a task force  
5 officer with the TDS?

6 A. I am.

7 Q. And if I use the acronym TFO, you  
8 will understand that refers to task force  
9 officer?

10 A. I will.

11 Q. And you joined the TDS as a TFO in  
12 February 2012, correct?

13 A. Yes, sir.

14 Q. How did this assignment come about?

15 A. At some point, the GS was -- from  
16 the Cleveland DEA office reached out to our  
17 department and informed them that they were  
18 creating a TDS group out of the Cleveland DEA  
19 and asked if I was interested in being a part  
20 of it.

21 Q. First all, a couple more acronyms  
22 in there. What does GS stand for?

23 A. A group supervisor. I believe he

24 [REDACTED]  
25 that contacted our office.

Page 124

1 Q. And he is with the Drug Enforcement  
2 Administration?

3 A. Yes, sir.

4 Q. And was his request made directly  
5 to you or was it made to your superiors?

6 A. It was made to my superiors.

7 Q. And were you given a choice, or was  
8 this an order from your superiors to join the  
9 TDS as a TFO?

10 A. I was given a choice.

11 Q. And you accepted?

12 A. Yes, sir.

13 Q. Do you know for how long TDS has  
14 been around?

15 A. We started the group in February of  
16 2012. I was one of the initial members.

17 Q. Who are the other initial members?

18 MR. BENNETT: Objection. You may  
19 talk generally about the task force. You may  
20 not give specifics on strengths of the task  
21 force and those details. So if these are  
22 publicly known individuals on the task force,  
23 then you may answer. If they are not publicly  
24 known, then you are not authorized to answer  
25 that.

Page 125

1 Q. Let me ask a different question.

2 First of all, do you know how many  
3 other members of the task -- how big the task  
4 force was when you started?

5 MR. BENNETT: Objection. Again,  
6 the size of the force is not something that  
7 this witness is authorized to answer.

8 Q. Were any other officers at the  
9 Cleveland Police Department or Akron Police  
10 Department members of TDS as of February 2002?

11 MR. BENNETT: You may answer that.

12 A. No, they were not.

13 Q. Subsequently, did members of the  
14 Akron Police Department and Cleveland Police  
15 Department join TDS?

16 A. Yes.

17 Q. Who were those?

18 A. About a year ago, Det. John Prince  
19 from the Cleveland Police Department joined the  
20 TDS.

21 Q. And then how about from Summit  
22 County or Cuyahoga County?

23 A. Yes. Det. Lori Baker-Stella from  
24 Summit County Sheriff's Office. There was a  
25 deputy from the Cuyahoga County Sheriff's

Page 126

1       Department, Lou Scabelli, he's no longer with  
2       us, and he's been replaced by John Gioitti.

3           Q.     Do you recall their dates of  
4       participation?

5           A.     Mr. Gioitti was somewhere around  
6       the same time as Mr. Prince, about a year ago.

7           Q.     What are your responsibilities  
8       within TDS?

9           A.     We are considered to have the same  
10       responsibilities as an agent, open and  
11       investigate cases.

12          Q.     What type of cases?

13          A.     Prescription criminal cases.

14          Q.     What do you mean by "prescription  
15       criminal cases"?

16          A.     The TDS, the tactical diversion  
17       squad, we are geared toward overprescribing  
18       physicians, pharmaceuticals, any pharmacists  
19       that are dispensing illegally or improperly,  
20       down to patients that are selling their  
21       narcotics.

22          Q.     So all forms of prescription drug  
23       diversion, correct?

24          A.     Yes, sir.

25          Q.     Do you have any responsibilities

1 for budgeting or finance?

2 A. I do not.

3 Q. Do you have any responsibilities  
4 for administration or leadership?

5 A. No. Unless I'm the case agent,  
6 then I still have to -- I don't have -- I have  
7 control over my case up until the point where  
8 the supervisor would supercede.

9 Q. How are cases assigned among TFOs?

10 A. It really just depends. Some cases  
11 are assigned by the group supervisor. In our  
12 particular TDS, cases that are in the Summit  
13 County control area would go to myself or Det.  
14 Baker-Stella first. Physicians in our area, we  
15 would be at least the -- maybe not the case  
16 officer, but a co-case officer on them.

17 Q. And are you still employed by Akron  
18 Police Department?

19 A. I am.

20 Q. And, in fact, they pay your -- they  
21 pay your salary, and then the federal  
22 government pays your overtime; is that right?

23 MR. LEDLIE: Object to the form of  
24 the question. Misstates.

25 Q. Who pays your salary?

1           A.       The Akron Police Department pays my  
2 salary.

3           Q.       And your overtime when you are  
4 working on TDS work is paid for by the federal  
5 government?

6           A.       Right. The Akron Police Department  
7 still pays my overtime. They are reimbursed  
8 quarterly by the federal government.

9           Q.       And do you still report to  
10 superiors within the Akron Police Department?

11          A.       Yes, sir.

12          Q.       And how do you decide who you are  
13 working for on a given day?

14          A.       I'm assigned to the Cleveland DEA.  
15 I check in with Akron every day, and then I go  
16 to the Cleveland office.

17          Q.       When you joined TDS in February of  
18 2012, did you receive any specialized training  
19 relating to or in connection with this  
20 assignment?

21          A.       Yes. I was sent to Quantico for a  
22 week-long diversion school.

23          Q.       Was that in February of 2012?

24          A.       No, I believe it was -- it was at  
25 least a year, maybe two years later.

1           Q.       And what can you tell me about the  
2 training that you received at Quantico?

3           A.       It was case studies and additional  
4 information on how other investigators had  
5 utilized investment tools and techniques to  
6 conduct cases.

7           Q.       Who ran the program?

8           A.       The DEA.

9           Q.       Were you the only person from the  
10 Cleveland/Akron area to attend?

11          A.       That class I was.

12          Q.       Did you receive any other training  
13 in connection with your assignment to TDS?

14          A.       I went to numerous schools for  
15 training. I believe one of the HIDTA schools  
16 the DEA had me go to was a surveillance  
17 technique school.

18          Q.       And when you went and you did the  
19 Quantico training and these other trainings, do  
20 you know who paid for those?

21          A.       I do not. I assume Quantico was  
22 paid for -- I'm not supposed to assume. So DEA  
23 sent me. I flew, so it was on my DEA travel  
24 card, so DEA paid for my flight back and forth  
25 and the hotel stay.

Page 130

1 - - - -  
2 (Thereupon, Deposition Exhibit 9,  
3 Designated Confidential, Email  
4 Chain, with Attachment, Beginning  
5 with Bates Label AKRON 001163442,  
6 was marked for purposes of  
7 identification.)  
8 - - - -

9 Q. I'm handing you what has been  
10 marked as Leonard Exhibit 9.

11 MR. BENNETT: Counsel, can you tell  
12 me which tab this is in the binder you gave me  
13 this morning?

14 MR. WINKELMAN: 4.

15 MR. BENNETT: Okay. Thank you.

16 Q. Exhibit 19 is a three-page document  
17 bearing production numbers Akron 001163442  
18 through 44. Have you seen this document  
19 before?

20 A. Yes, sir.

21 Q. Exhibit 9 is an email chain. The  
22 last entry is an email from Chip Westfall to  
23 you dated July 16 of 2013; do you see that?

24 A. Yes.

25 Q. You received this email from

1       Mr. Westfall on or about that date in the  
2       ordinary course of business?

3           A.     I did.

4           Q.     So Mr. Westfall is a lieutenant in  
5       the Akron Police Department, correct?

6           A.     Yes, he was.

7           Q.     And did you report directly to him?

8           A.     Yes, sir.

9           Q.     And in this email chain, he asks  
10      you to attend a one-day summit on  
11      pharmaceutical drug diversion training,  
12      correct?

13           A.     Yes, sir.

14           Q.     And did you, in fact -- this is in  
15      August of 2013, correct?

16           A.     Yes, sir.

17           Q.     And did you, in fact, attend that  
18      training?

19           A.     No, sir, I don't believe I did.

20           Q.     Do you know why not?

21           A.     The only reason I would have not  
22      attended was if we had an operation going that  
23      day.

24           Q.     So why do you believe you did not  
25      attend this training?

1           A.     Because I don't remember going to  
2 anything at the Cuyahoga County College  
3 Technical Training Center. I don't recall  
4 attending that facility for a training.

5           Q.     Okay.

6           MR. LEDLIE: What was this Exhibit  
7 Number?

8           MR. WINKELMAN: 9.  
9                - - - - -  
10           (Thereupon, Deposition Exhibit 7,  
11 Previously Marked, Designated  
12 Confidential, Email Chain, Beginning  
13 with Bates Label AKRON 000368766,  
14 was marked for purposes of  
15 identification.)  
16                - - - - -  
17           Q.     Det. Leonard, I'm handing you what  
18 we marked as Exhibit 7 at your first  
19 deposition.

20           MR. LEDLIE: And at the last  
21 deposition, I instructed that I'm clawing this  
22 back based on the police investigation  
23 privilege.

24           MR. ROMAN: But this was not clawed  
25 back.

1                   MR. LEDLIE: If you intend -- we  
2 can get the special master on the phone if you  
3 would like to, but I'm not going to allow any  
4 questioning on this. I'm asserting the  
5 privilege under police investigation and  
6 techniques and schools. I'm not going to allow  
7 any questions on this.

8                   MR. ROMAN: I don't know why it  
9 wasn't included in the clawback. When you  
10 tried to prepare for the deposition, you clawed  
11 back a number of documents.

12                  MR. LEDLIE: We discussed this at  
13 the last deposition, but we can take it up with  
14 the Court, if you want.

15                  Q. So when we spoke in January, Det.  
16 Leonard, we talked about your diversion  
17 investigations pre-2012; do you recall that?

18                  A. Yes, sir.

19                  Q. And you identified different types  
20 of diversion: theft, forgery, doctor shopping,  
21 pill sharing, overprescribing and pill mills;  
22 do you recall that?

23                  A. Yes, sir.

24                  Q. And have you in your work with TDS  
25 dealt with or addressed all these same forms of

Page 134

1 diversion?

2 A. Yes, sir.

3 Q. Are you aware of any other forms of  
4 diversion, and are there any others in which  
5 you have been involved since joining TDS?

6 A. I was involved in assisting a civil  
7 investigation with the diversion investigator,  
8 where the --

9 MR. LEDLIE: I'm going to object.  
10 This falls, in my opinion, outside of the  
11 specific case and this falls outside of  
12 authorization, in my understanding.

13 MR. BENNETT: I'll indicate under  
14 the scope of the authorization, Det. Leonard is  
15 authorized to talk about cases including civil  
16 cases that have been filed publicly and  
17 resolved. So I believe he may be talking about  
18 a case that has been filed publicly and  
19 resolved, in which case he is authorized to  
20 answer that question.

21 If, however, it is an investigation  
22 that was not publicly filed and resolved, then  
23 you do not have authorization to answer that.  
24 So I would join in the scope of the objection,  
25 to the extent that it is not a public case.

1           A.       We returned a bunch of records,  
2 files, to a corporation in Wadsworth that had  
3 paid a very large fine to the U.S. Government,  
4 reference distribution of some narcotics.

5           Q.       First of all, let me just ask  
6 whether or not this matter has been filed  
7 publicly and resolved?

8           A.       It was civilly open and closed. I  
9 don't know any more than that.

10          Q.       When you say you returned a bunch  
11 of records to a corporation in Wadsworth, what  
12 does that have to do with --

13          A.       They were a dispensing  
14 organization.

15          Q.       And what type of an organization?

16          A.       I don't even know what the name of  
17 it was at this point. It was probably 2012,  
18 2011, 2014. It was early. We assisted a  
19 diversion unit. A diversion investigator was  
20 assigned to our TDS, and, like I said, we  
21 assisted in returning files from an open case  
22 that was recently closed in a civil litigation.

23          Q.       I understand you returned the  
24 files, but what was the investigation into,  
25 what was going on?

1 A. It was a dispensing issue.

2 Q. So a pill mill?

3 A. No. It was a distribution center.

4 Q. Whose distribution center?

5 A. I don't recall.

6 Q. Do you know who the defendants are  
7 in this case?

8 A. I do not.

9 Q. I'm just going to show you, Det.  
10 Leonard, the caption on the corrected second  
11 amended complaint and jury demand in this case,  
12 and ask you to look at the list of defendants  
13 and ask if any of the defendants were involved  
14 in that case?

15 A. I've looked at that. If I saw the  
16 name, I wouldn't recognize who it was. I don't  
17 know who the distributing --

18 Q. Do you know whether, for example,  
19 it was my client, McKesson?

20 A. I know exactly where the facility  
21 is at, I could drive there, I don't know the  
22 name of it.

23 Q. Where is the facility?

24 A. In Wadsworth, Ohio.

25 Q. And do you know what they were

Page 137

1 distributing there?

2 A. No.

3 Q. Were you involved at all in the  
4 investigation?

5 A. No, sir.

6 Q. You just were returning the papers?

7 A. Yes, sir.

8 Q. I'm sorry. You said you are aware  
9 of who the defendants are in this case?

10 A. No, I'm not.

11 Q. So let me --

12 A. I'm sorry. Are you talking about  
13 the case in Wadsworth?

14 Q. No, this case.

15 A. Yes, I know who the defendants in  
16 this case are.

17 Q. Have you ever investigated any of  
18 the defendants in this case for anything?

19 MR. BENNETT: Objection. Scope.

20 He's not authorized to discuss any  
21 investigations as a DEA task force officer that  
22 would have involved any particular individual,  
23 including but not limited to the defendants in  
24 this case. To the extent that he investigated  
25 any of them before becoming a task force

Page 138

1                   officer, he may answer.

2                   MR. ROMAN: Well, can he answer  
3                   that yes or no?

4                   MR. BENNETT: He may not, unless  
5                   they were publicly charged and convicted. If  
6                   he has any cases that were actually indicted  
7                   and convicted against any defendants, he may  
8                   answer that as well. That's within the scope.

9                   Q. First of all, can you answer that  
10                  question?

11                  A. The answer is no.

12                  Q. How about pre-February 2012, have  
13                  you ever investigated any of the defendants in  
14                  this case -- did you investigate any of the  
15                  defendants in this case pre-February of 2012?

16                  A. No, I did not.

17                  Q. Are you aware of any instance since  
18                  February of 2012 in which one of the defendants  
19                  in this case has sold or distributed an opioid  
20                  where there has not been a prescription from a  
21                  licensed practitioner?

22                  MR. BENNETT: Objection. Scope.  
23                  You are not authorized to answer that question,  
24                  to the extent it calls for official Department  
25                  of Justice information, stuff that you did as a

1 task force officer.

2 To the extent you did something  
3 other than being a task force officer, you may  
4 answer.

5 A. Everything I did in my  
6 investigations were as a task force officer.

7 Q. Well, let me ask you this: As an  
8 officer of the Akron Police Department, have  
9 you at any time investigated any of the  
10 defendants for selling or distributing an  
11 opioid where there has not been a prescription  
12 from a licensed practitioner?

13 MR. LEDLIE: Object to the scope,  
14 to the extent you are asking about after  
15 February of 2012.

16 A. Can you restate your question.

17 MR. ROMAN: Well, I mean, I assume  
18 you are instructing the witness not to answer?

19 MR. LEDLIE: Well, my  
20 understanding, I'm counseling him that if I  
21 understood counsel for the Department of  
22 Justice, you are not allowed to discuss  
23 specific cases that you did or did not  
24 investigate from February of 2012 that were DEA  
25 matters. If you have other matters that are

Page 140

1       city matters, you are allowed to answer that.

2           A.       I can't answer that question.

3           MR. ROMAN: I will just note that  
4       it seems that our Touhy authorization is  
5       largely illusory, but...

6           Q.       So in their interrogatory  
7       responses, Summit County and Akron identified  
8       pill mills operated in their jurisdictions run  
9       by the following doctors: Dr. Harper, Dr.  
10      Adolph Harper; Dr. Brian Heim, H-E-I-M; Dr.

11           [REDACTED]  
12           [REDACTED]

13      T-R-I-C-A-S-O; and Dr. Gregory Ingram,  
14      I-N-G-R-A-M.

15           I understand, Det. Leonard, that  
16       you were involved in the Harper investigation;  
17       is that correct?

18           A.       Yes, sir.

19           Q.       Were you involved in any of the  
20       other investigations?

21           MR. LEDLIE: I would object to the  
22       characterization of a "pill mill." I believe  
23       we said there was improper prescribing, but I  
24       don't believe that language is accurate.

25           A.       A couple of those names are still

Page 141

1 open, ongoing investigations, and I am involved  
2 in most of the other names you read.

3 Q. Are there any in which you have not  
4 been involved with? Do you want me to read the  
5 list again?

6 A. Please.

7 Q. Dr. Heim, Dr. Njoku, Dr. Lazzerini,  
8 Dr. Tricaso, Dr. Ingram.

9 A. I believe that Dr. Njoku was a  
10 medical board investigation. I'm not positive,  
11 but that's what I recall.

12 Q. And all the others, you were  
13 involved with the investigations into them?

14 A. Yes, sir.

15 Q. And do you have any information,  
16 based on your investigations, that any  
17 defendant in this case ever sold or marketed a  
18 prescription opioid to any of these five  
19 doctors, everybody except for Dr. Njoku?

20 MR. BENNETT: Objection. Scope.  
21 The witness an authorized to answer his  
22 personal knowledge regarding the identities of  
23 individuals who have been charged and  
24 convicted. He is not authorized to discuss the  
25 substance of his investigation.

Page 142

1                   MR. ROMAN: I think you're going to  
2 have a tough time objecting to this one.

3                   Q. This is off your website.

4                   A. Okay.

5                   MR. LEDLIE: Objection. That's the  
6 DEA's website, not Det. Leonard's.

7                   MR. BENNETT: And counsel, for the  
8 record, we did review this when you gave it to  
9 us this morning, and we do not have any  
10 objections to you asking questions on this one.

11                  MR. ROMAN: Good.

12                  - - - - -

13                  (Thereupon, Deposition Exhibit 10, A  
14 Three-Page Document Printed Off of  
15 the Justice Department DEA Diversion  
16 Control Division Website on November  
17 25 of 2018, was marked for purposes  
18 of identification.)

19                  - - - - -

20                  Q. Det. Leonard, I'm handing you what  
21 has been marked as Leonard Exhibit 10. It is a  
22 three-page document that I will represent was  
23 printed off of the Justice Department DEA  
24 Diversion Control Division website on November  
25 25 of 2018.

Page 143

1                   Have you seen this document before?

2                   A.        Earlier today.

3                   Q.        The first page, there is a heading  
4                   Tactical Diversion Squads; do you see that?

5                   A.        Yes, I do.

6                   Q.        And the first paragraph of that  
7                   reads, "The Tactical Diversion Squads combine  
8                   DEA resources with those of federal, state and  
9                   local law enforcement agencies in an innovative  
10                  effort to investigate, disrupt, and dismantle  
11                  those suspected of violating the Controlled  
12                  Substances Act or other appropriate federal,  
13                  state or local statutes pertaining to the  
14                  diversion of licit pharmaceutical controlled  
15                  substances or licit chemicals"; do you see  
16                  that?

17                  A.        I do.

18                  Q.        And is that the mission of the  
19                  division, as you understand it?

20                  A.        Yes, sir.

21                  Q.        How does TDS go about disrupting  
22                  and dismantling those suspected of violating  
23                  the Controlled Substances Act?

24                  MR. BENNETT: Objection. Scope.

25                  He's not authorized to answer anything about

Page 144

1       the investigation or intelligence gathering and  
2       dissemination techniques.

3                 And so to the extent you can talk  
4       at a high level generally, you may, but you may  
5       not disclose any of the techniques used by the  
6       task force or the DEA.

7                 Q.        You can give me a general  
8       description, please?

9                 A.        I mean, it's a pretty  
10      self-explanatory what the paragraph says. We,  
11      you know, complaints that come -- or forwarded  
12      to us or investigative suspicious activity, we  
13      would follow up with investigations.

14                Q.        Let me step back a second. Do you  
15      have an understanding of the Controlled  
16      Substances Act?

17                A.        Yes.

18                Q.        And what is that understanding?

19                A.        It's the act that controls all the  
20      distribution of controlled substances.

21                Q.        And do you know to whom it is  
22      directed?

23                A.        No.

24                Q.        Have you ever read it?

25                A.        I've -- yes. It's been a long time

Page 145

1 ago.

2 Q. Do you understand whether it is  
3 directed at maybe manufacturers or distributors  
4 or pharmacies, all three, some of them?

5 A. I believe it is all of them.

6 Q. On the second page of this  
7 document, it lists the Ohio TDS offices as  
8 being in Cleveland, Columbus; do you see that?

9 A. Yes.

10 Q. Well, strike that.

11 Do you know what the jurisdictions  
12 are of those two offices, do they coordinate,  
13 is Cleveland responsible for certain portions  
14 of the state and Columbus responsible for  
15 other portions, what is the relationship  
16 between those two offices?

17 A. The state is divided where  
18 Cleveland has so many of the northern counties  
19 and at some point Columbus has the rest of the  
20 state.

21 Q. And you are out of the Cleveland  
22 office, correct?

23 A. Yes, sir.

24 Q. Do you ever coordinate with those  
25 in the Columbus office?

1           A.       Yes, sir.

2                    MR. BENNETT: Objection. Scope.

3                  You are not authorized to talk about the  
4                  specific cases, but you can talk generally  
5                  about coordination.

6           Q.       And in what types, not specific  
7                  cases, in what types of matters do you  
8                  coordinate with those in the Columbus office?

9           A.       Open investigations. That would  
10                 depend on what -- it could be any or all,  
11                 depending what we were working.

12           Q.       Do you have statewide  
13                 investigations?

14           A.       Yes. We have multistate  
15                 investigations.

16           Q.       And in those situations where you  
17                 have multistate investigations, do you  
18                 coordinate with TDS offices in other states?

19           A.       Yes, sir.

20           Q.       Now, do TDS's responsibilities  
21                 extend to the diversion of all prescription  
22                 drugs, as opposed to just prescription opioids?

23           A.       All we investigate are the opioids.  
24                 All that I have been involved with are the  
25                 opioids.

Page 147

1           Q.     How did you know about TDS in  
2 general, whether others within TDS in any of  
3 these offices are involved with the diversion  
4 of prescription -- of prescription drugs that  
5 are not opioids?

6           MR. BENNETT: Objection. Form.

7           A.     We do investigate other -- we have  
8 had some -- just a second.

9           Q.     Is this a matter of privilege?

10          A.     I just have a question for counsel.

11          MR. BENNETT: Is it around the  
12 scope of your authorization?

13          THE WITNESS: Yes.

14          MR. BENNETT: You can talk  
15 generally about the type of cases, but not any  
16 specific questions. So he asked about another  
17 controlled substance that is not an opioid and  
18 whether he is authorized to talk about it. I  
19 have instructed the witness that he is  
20 authorized to answer generally about the type  
21 of cases if there is other prescription drugs,  
22 but not about a specific investigation. That  
23 was your question.

24          A.     So we have done others besides  
25 [REDACTED]

1

2 Q. I gather you are 100 percent -- you  
3 personally are 100 percent on prescription  
4 opioids?

5 MR. LEDLIE: Objection to form.

6 A. No. I have investigated other

7

8

9 other prescription narcotics, other  
10 prescription medications.

11 Q. Can you quantify the time that you  
12 have spent on investigating diversion of  
13 prescription opioids versus other types of  
14 prescription drugs?

15 A. Only to say that the large majority  
16 of the time would be opioids. I don't have a  
17 specific breakdown for you.

18 Q. And do you ever -- are you ever  
19 involved in the investigation of  
20 nonprescription opioids, such as heroin or  
21 fentanyl?

22 MR. LEDLIE: Objection to the  
23 characterization of fentanyl as a  
24 nonprescription opioid.

25 Q. Well, this is fentanyl,

1 nonprescription fentanyl?

2 A. We have been involved in  
3 individuals that are making -- have their own  
4 pills -- pill press. So an individual that is  
5 making fake prescription medication, that may  
6 include illicit fentanyl, we have done those  
7 investigations.

8 Q. So those would be counterfeit  
9 pills, correct?

10 A. Yes, sir, that's correct.

11 Q. And that's something you and others  
12 in TDS have investigated?

13 A. Yes, sir.

14 Q. Can you give me a sense of how much  
15 time you spent on this an a day-to-day basis  
16 investigating the diversion of prescription  
17 opioids as opposed to everything else you  
18 investigate, whether it be prescription  
19 nonopioids or just nonprescription drugs?

20 MR. LEDLIE: Object to the form of  
21 the question.

22 A. It would be a guess to give you a  
23 percentage. The majority of our time is spent  
24 on opioids.

25 Q. Diversion of prescription opioids?

Page 150

1           A.       Yes, sir.

2           MR. BENNETT: Do you want to take a  
3 break, counsel?

4           MR. ROMAN: I'll be fine. I'll get  
5 some water.

6           Q.       So a few minutes ago, we talked  
7 about the types of diversion: theft, forgery,  
8 things of that nature.

9           Has the types of diversion you can  
10 investigate changed over time; has the mix  
11 changed over time?

12          MR. LEDLIE: Object to the form of  
13 the question.

14          A.       Since joining the TDS, more of my  
15 time has been spent on larger investigations,  
16 whether it be, you know, pill presses,  
17 physician offices, prescribers, more so than  
18 individual doctor shoppers.

19          Q.       Do you know why that's been the  
20 case?

21          A.       We have more assets available and  
22 more manpower to go along with the  
23 investigative tools.

24          Q.       When did you receive these  
25 additional assets and manpower?

1                          MR. LEDLIE: Object to the form of  
2                          the question.

3                          A. Those assets I'm talking about are  
4                          the other TFOs and agents that are from 2012 on  
5                          that I work hand in hand with everyday.

6                          Q. Since 2012, you have started  
7                          focusing on the larger cases?

8                          MR. LEDLIE: Object to the form of  
9                          the question.

10                        A. No. I did the Dr. Harper case  
11                        several years prior to 2012. At that time I  
12                        used -- the additional manpower came from the  
13                        state board of pharmacy and the medical board.

14                        Q. So can you provide more detail  
15                        about the additional, what you call assets that  
16                        have become available since 2012? Are you  
17                        talking about additional federal agents; is  
18                        that it?

19                        A. Federal agents, overtime, vehicles.  
20                        It is easier to do your job when you have  
21                        additional people helping you.

22                        Q. And have all those addition assets  
23                        been federally funded?

24                        A. I know most of them have. I can't  
25                        think of any that haven't, but I can't give you

Page 152

1       100 percent on that.

2           Q.     Do you have any familiarity at all  
3       with the budget of TDS?

4           A.     No, sir.

5           Q.     Do you know if Akron or Summit  
6       provides any financial assistance to TDS, other  
7       than paying your base salary and benefits?

8           A.     I do not know that.

9           Q.     Are you familiar with any cost  
10      sharing or reimbursement agreements, other than  
11      with respect to your own overtime, between TDS  
12      and the City of Akron or the Akron Police  
13      Department?

14          A.     There is an asset forfeiture  
15      sharing agreement.

16          Q.     Please describe that.

17          A.     It is based on the federal  
18      government guidelines of assets that are seized  
19      in a prosecution, and they will be divided up  
20      between the government and the agencies that  
21      provide assistance to the TDS.

22          Q.     When you say, "Between the  
23      government and the agencies," you are talking  
24      about the federal government?

25          A.     Yes, sir.

1           Q.     And do you know how that division  
2     is worked out as between the federal government  
3     and the state agencies?

4           A.     I know that I provide a DAG form.  
5     I write out how many hours I have invested in  
6     the case, and someone up the chain determines  
7     what percentage each city or municipality will  
8     receive from the assets.

9           Q.     What is the DAG form?

10          A.     Department of Justice.

11                MR. CIPRIANI: Deputy Attorney  
12     General Form.

13          Q.     That's your understanding?

14          A.     Yes, sir.

15          Q.     I just want to make sure. You are  
16     sworn, and he's not.

17          A.     Right.

18          Q.     And when you are talking about  
19     asset forfeiture, what types of assets are we  
20     talking about?

21          A.     Anything seized of value.

22          Q.     Such as?

23          A.     It could be cars, cash, bank  
24     accounts, houses, jewelry.

25          Q.     Would you have any sense on an

1 annual basis how much the City of Akron or the  
2 Akron Police Department receives pursuant to  
3 this asset forfeiture sharing agreements?

4 A. No, I do not.

5 Q. Do you know where these DAG forms  
6 are maintained?

7 A. No, sir, I do not.

8 Q. Do you personally maintain copies  
9 of the DAG forms that you completed?

10 A. I do not.

11 Q. Where do you send them?

12 A. To one of the administrative staff  
13 at the Cleveland Drug Enforcement  
14 Administration office to be processed.

15 Q. Do you know who in particular?

16 A. Ashley -- for the life of me, I  
17 can't think of her last name right now --  
18 Williams.

19 Q. Do you know what Ms. Williams does  
20 with them?

21 A. No, sir, I don't.

22 Q. Now, the last time we talked, you  
23 testified that there was no opioid crisis in  
24 Akron before 2012; do you remember that  
25 testimony?

Page 155

1 A. Yes, sir.

2 Q. And is that still your testimony?

3 MR. LEDLIE: Object to the form.

4 Misstates his testimony.

5 A. Yes, sir, I still believe that the  
6 epidemic did not hit prior to 2012.

7 Q. Is it your view that there is now  
8 an opioid crisis or epidemic in Akron?

9 A. Yes, sir, there is.

10 Q. How do you describe that crisis or  
11 epidemic?

12 A. An overwhelming medical problem in  
13 the opioids in our geographical area of  
14 Northeastern Ohio.

15 Q. What are the elements of that  
16 overwhelming medical problem?

17 A. The amount of time and money spent  
18 by the fire department, the police department,  
19 the emergency rooms, the coroner's office  
20 investigating and following up on overdoses and  
21 overdose deaths within our region.

22 Q. And you believe that this epidemic  
23 or crisis -- do you prefer one of those two  
24 terms?

25 A. It doesn't matter to me.

1           Q.        Okay. You believe this epidemic or  
2 crisis drug began sometimes between 2012 and  
3 2019, correct?

4           A.        The crisis, I do have an opinion.  
5 The crisis has been ongoing throughout the  
6 2000s. It continued to evolve. I don't  
7 believe it turned into an epidemic until after  
8 2012, but there has been a continual opioid  
9 crisis in the geographical area of Summit and  
10 Northeastern Ohio.

11          Q.        When do you believe it became an  
12 epidemic in the Akron area?

13          A.        I think that's one of those  
14 questions that, based on my training,  
15 experience in the field, and doing my job, that  
16 those are information I've learned as a TFO and  
17 an Akron police officer.

18                  I have a hard time disseminating  
19 what I'm authorized to say legally.

20                  MR. BENNETT: So I'll remind the  
21 witness that he is not authorized to give  
22 personal opinions regarding nonpublic facts or  
23 information you acquired as part of the  
24 performance of your task force officer duties.  
25 Information you learned outside of the cases

Page 157

1       you investigated, as a TFO, then you may  
2       answer.

3           A.     And therein lies the problem. I  
4       believe that most of what I learned as a TFO  
5       would give me the idea of what years that  
6       epidemic started. So unfortunately, I'm not  
7       authorized to answer that.

8           Q.     Let me ask a different question.  
9       What changed, what was it that was not an  
10      epidemic before and that became an epidemic,  
11      what was the difference, was it just a matter  
12      of magnitude, was there an event?

13          A.     I don't think there was one  
14      specific event. I think it was a continued  
15      growth of the crisis that turned into an  
16      epidemic, whether it is sheer volume of  
17      victims, of individuals, that overwhelmed all  
18      the resources we had in the area.

19          Q.     And your view is that sometime  
20      between 2012 and 2019, the sheer volume took  
21      an -- increased, correct?

22                   MR. LEDLIE: Object to the form.

23          A.     Yes, I believe that's a fair  
24      statement.

25          Q.     Now, originally, you said you

1 didn't care whether I used "crisis" or  
2 "epidemic," and we were both using it  
3 interchangeably, and then you kind of drew a  
4 distinction; do you recall that testimony?

5 A. Yes, sir.

6 Q. What is your understanding of  
7 crisis and how does that differ in your mind  
8 from that of an epidemic?

9 A. Are you asking my personal opinion?

10 Q. Well, your opinion as someone who  
11 has been on the front lines in Akron for  
12 decades fighting --

13 A. I would say that the crisis is  
14 something we are still combatting. We were  
15 still able to handle a percentage, you know, a  
16 larger percentage of it, the state, keep pace  
17 with it, even though it continued to evolve.

18 As we continued to lose ground on  
19 it, that was still a crisis, until we were  
20 completely overwhelmed. I would say that would  
21 be the epidemic.

22 Q. So in your mind, it is just an  
23 order of magnitude, an epidemic is greater than  
24 a crisis; is that a fair summary?

25 MR. LEDLIE: Object to form.

1           A.       Yes, sir.

2           Q.       And was there a certain event or  
3       series of events that, in your mind, caused the  
4       crisis to evolve into an epidemic?

5           A.       I don't believe I'm authorized to  
6       answer that.

7                   MR. BENNETT: The extent that that  
8       requires you to rely on nonpublic information  
9       you learned at the Department of Justice, you  
10      can't answer.

11                  To the extent that it's information  
12      beyond that that you can answer, whether that's  
13      related to Akron and Summit County resource  
14      issues or information you learned that is  
15      public, then you may answer.

16           A.       I don't believe I can answer that.

17           Q.       Are you familiar with the scope of  
18      the opioid crisis or opioid epidemic in  
19      jurisdictions outside of Akron and Summit  
20      County?

21           A.       No, sir, I am not.

22                  Well, take that back. I'm aware of  
23      the opioid epidemic and crisis as it pertains  
24      to Ohio, Northeastern Ohio, and through the  
25      TDS. A lot of my cases are not in Akron and

Page 160

1       Summit County, they are in Northeastern Ohio,  
2       so I'm aware of Northeastern Ohio.

3           Q.     But, for example, are you able to  
4       make a comparison between the situation here  
5       and the situation, for example, in Kentucky?

6           A.     No, sir, I'm not.

7           Q.     How about other parts of Ohio,  
8       other than where you focused?

9           A.     No. My knowledge and intelligence  
10      on the opioid epidemic is for this area.

11          Q.     Forgive me if I'm asked this  
12      before, but do you investigate issues involving  
13      heroin and fentanyl at all?

14          A.     I do not, minus what we said about  
15      pill presses. If I investigate a pill press  
16      and there is fentanyl, then that will fall  
17      under the scope of my investigations.

18          Q.     Because in your mind a counterfeit  
19      drug is a form of diversion?

20          A.     Yes, sir.

21          Q.     And when we talk about an opioid  
22      crisis or an opioid epidemic, do you  
23      include -- do you draw a distinction between  
24      prescription opioids and nonprescription  
25      opioids?

1                          MR. LEDLIE: Object to the form of  
2                          the question.

3                          A. No, I don't. Only because I  
4                          believe that the opioid epidemic led to the  
5                          illicit opioid epidemic.

6                          Q. You mean the prescription --

7                          A. Yes. The addiction to the  
8                          prescription opioids have led to the heroin and  
9                          the fentanyl and the illicit drugs.

10                        Q. And what is the basis for that  
11                        belief?

12                        A. The opioid addiction. People I've  
13                        seen that are abusing opioids, prescription  
14                        opioids, when they can't get a continued  
15                        prescription from a physician, when they can't  
16                        afford to buy the pills, that they turn to  
17                        heroin.

18                        Q. And do you talk to these people?

19                        A. Sometimes.

20                        Q. How often do you talk to the people  
21                        who have started with prescription opioids and  
22                        then can't get the pills and then turn to  
23                        heroin or fentanyl or some other form of  
24                        illicit drugs?

25                        A. I don't know how many times I have

1        talked to them, but hundreds of times over the  
2        last 15, 20 years in law enforcement and  
3        working narcotics.

4           Q.        How has it come up?

5           A.        Normally during an interview  
6        investigation of a doctor shopper.

7           Q.        How many interviews do you think  
8        you have conducted of doctor shoppers?

9           A.        Hundreds.

10          Q.        And in these interviews, do you  
11        always ask how they started on opioids?

12          A.        Yes, sir.

13          Q.        And how often -- do you take notes  
14        of these interviews?

15          A.        I type up a report.

16          Q.        Do you maintain these reports?

17          A.        The City of Akron does.

18          Q.        Where are they maintained?

19          A.        The record room.

20          Q.        What are they called?

21          A.        Reports of Investigation.

22          Q.        And you open one every single time  
23        that you talk to a doctor shopper, for example?

24          A.        No.

25          Q.        When do you prepare a report and

1       when do you not prepare a report?

2           A.       When there is a criminal  
3 investigation where a criminal charge is filed.

4           Q.       I know there is some -- well, in  
5 what circumstances do you talk to a doctor  
6 shopper where there is no criminal  
7 investigation?

8           A.       That person could end up becoming a  
9 source.

10          Q.       Well, aren't you investigating at  
11 that point?

12          A.       But those aren't reports typed  
13 on -- source information doesn't go on a report  
14 of investigation.

15          Q.       In these reports of an  
16 investigation, when you talk to the doctor  
17 shoppers and they tell you that they started  
18 off on prescription opioids, is that something  
19 that you write down?

20              MR. LEDLIE: I'm going to object to  
21 the extent that this calls for the tools and  
22 techniques of case investigation of diversion  
23 cases. The actual tools and techniques that  
24 the detective employs would be subject to law  
25 enforcement privilege.

1               If you want to talk generally,  
2 without going into the tools and techniques  
3 that he utilized, but you are talking about a  
4 specific report of investigation, and there is  
5 no way that I can see that you can do that.

6               MR. ROMAN: I'm talking about  
7 general practice, and I can assure you that we  
8 just spent the last two and a half hours with  
9 Det. Moran asking him about specific reports  
10 that he filed on behalf the Cleveland Police  
11 Department.

12              MR. LEDLIE: I don't represent the  
13 Cleveland Police Department.

14              MR. ROMAN: I understand you don't.  
15 Are you instructing the witness not to answer?

16              MR. LEDLIE: I'm instructing the  
17 witness not to reveal the tools and techniques  
18 that you use to investigate specific  
19 investigations. To the extent that you can  
20 answer his question without doing that, you may  
21 do so.

22              MR. ROMAN: I'm not sure this is a  
23 tool and technique. This is a reporting  
24 procedure that I'm asking about.

25              MR. LEDLIE: If I understand your

1 question, it is in these reports of  
2 investigation, which is a specific case, when  
3 you talk to a doctor, they would then tell you,  
4 you go into the contents of an interview of a  
5 doctor shopper, that's a tool and technique of  
6 an investigation.

7 MR. ROMAN: I'm asking what he  
8 writes down.

9 MR. LEDLIE: Oh, is that your  
10 question?

11 MR. ROMAN: Yeah.

12 Q. So you interview someone. You are  
13 investigating the doctor shopper and you  
14 interview that person.

15 A. Okay.

16 Q. And that person tells you, "I  
17 started on prescription opioids." Do you write  
18 that down in your reports?

19 A. Not always, no.

20 Q. When do you do it and when do you  
21 not do it?

22 A. Normally what I write down on the  
23 report would be the elements of the crime. Our  
24 prosecutor's office wants to make sure you ask  
25 the physician, did they write the prescription.

1       The doctor shopper is someone who has multiple  
2       physicians' prescription.

3                   THE WITNESS: Am I going past the  
4       scope?

5                   MR. LEDLIE: Yeah. You're going  
6       into how you build a case, how you build the  
7       contents of the case for the prosecutor. I'm  
8       going to object and assert -- not just object,  
9       I'm going to assert a privilege, a law  
10      enforcement and prosecutorial privilege as to  
11      that.

12                  MR. ROMAN: We have a witness here  
13       who has made a broad statement that people who  
14       are overdosing on nonprescription opioids  
15       started on prescription opioids, and I'm trying  
16       to test that assertion, and you are precluding  
17       me from doing so.

18                  MR. LEDLIE: I'm not precluding you  
19       from doing that. You asked him how he went  
20       about getting that information. He's answered  
21       your questions, but now you are getting into  
22       how you actually build an individual case.

23                  MR. ROMAN: Well, no. I'm trying  
24       to figure out -- so I'll tell you exactly where  
25       I'm going. It's no secret here.

Page 167

1                   What I'm trying to do is find out  
2 whether this information is in reports. My  
3 guess is if it is anything like Cleveland,  
4 that's an overstatement as to how often this  
5 fact shows up in these reports, and I'm just  
6 trying to lay a foundation for that. I don't  
7 think we have received the reports, which is a  
8 different issue.

9                   MR. LEDLIE: Reports of  
10 investigations have been made available to you,  
11 thousands of them. And he has already answered  
12 that he doesn't always write down this piece of  
13 information. So you have been allowed to  
14 inquire into that, but I'm not going to  
15 allow how he builds -- he was just going into  
16 something as to how he builds the elements of a  
17 crime and what goes into that. That I'm not  
18 going to allow.

19                   MR. ROMAN: Let me ask a different  
20 question.

21                   Q. Why do you ask -- you say you  
22 always ask whether the person started on  
23 prescription opioids?

24                   A. I never use the word "always." The  
25 majority of the time, yes, I ask that.

1 Q. Why do you do that?

2 A. To get a feel for the person, put  
3 them at ease and start talking to them, as part  
4 of the investigative technique to develop a  
5 rapport.

6 Q. When you write it down that the  
7 person started on prescription opioids, for  
8 what purpose are you doing that?

9 MR. LEDLIE: Objection, and  
10 privilege as to the purpose for which he would  
11 write down a report of investigation, the  
12 prosecutor's office, he already described. To  
13 ask any further questions beyond that is  
14 privileged.

15 Q. I apologize if I have already asked  
16 this before, but generally, I know you don't  
17 like the word "always," but generally, if  
18 somebody tells you they started on prescription  
19 pills in these reports and the investigations,  
20 do you generally write that down?

21 A. Probably not.

22 Q. How often would you say?

23 A. Not very often.

24 Q. Can you give me a percentage of the  
25 time that someone -- that folks have told you

1       that they started on prescription opioids  
2       before turning to heroin and fentanyl and other  
3       types of illicit opioids?

4           A.     It would be a guess.

5           Q.     So you don't know whether it is  
6       more than 50 percent?

7           A.     I would be guessing.

8           Q.     Okay. So you don't know?

9           A.     I could give my guess, but I don't  
10      know if you want a guess.

11          Q.     I don't want your guess.

12          A.     Okay. No, I don't have a number in  
13      my head where that is a certain percentage that  
14      I think would be more accurate than another  
15      percentage.

16          Q.     You can't say whether it is more  
17      than half or not, can you?

18          A.     No, I cannot.

19                    - - - - -

20                   (Thereupon, Deposition Exhibit 11,  
21      Designated Confidential, Multi-Page

22                   [REDACTED]

23                   [REDACTED]

24                   marked for purposes of  
25      identification.)

1

- - - - -

2

Q. Det. Leonard, I handed you --

3

4

MR. BENNETT: Counsel, before we

begin questions on this exhibit, the United States would seek to have the majority of this exhibit maintained as confidential and may have some redactions.

8

[REDACTED]

9

[REDACTED]

10

[REDACTED]

11

[REDACTED]

12

[REDACTED]

13

[REDACTED]

14

[REDACTED]

15

[REDACTED]

16

To the extent other questions may be asked regarding the annual report or the emails, we intend to request that remain confidential, but you would be able to ask this witness within the scope of his authorization

21

[REDACTED]

22

[REDACTED]

23

[REDACTED]

24

That is a DEA document and a

25

federal document, it contains federal

Page 171

1 information that is subject to law enforcement  
2 and other privileges.

3 MR. ROMAN: Let's see how much we  
4 can get with this one.

5 Q. Det. Leonard, I'm handing you what  
6 has been marked as Akron 00113527 -- I  
7 misspoke.

8 Det. Leonard, I'm handing you what  
9 has been marked as Exhibit 11, which is a  
10 multi-page document bearing production numbers  
11 Akron 001135275 through 5406.

12 Let me just first ask, have you  
13 seen this document before?

14 A. Earlier today, yes.

15 Q. Not beforehand?

16 A. No, sir.

17 Q. You will see on the first page, the  
18 center of this email, is an executive assistant  
19 and training coordinator with the Ohio  
20 H-I-D-T-A, HIDTA; do you see that?

21 A. Yes, sir.

22 Q. And you understand that to be a  
23 acronym for the High Intensive Drug Trafficking  
24 Area, correct?

25 A. That's correct.

1 Q. Have you had any involvement with  
2 HIDTA?

3 A. I have had training in HIDTA, yes.

4 Q. What type of training?

5 A. That's where some of the  
6 surveillance classes that we spoke of earlier  
7 were conducted.

8 Q. Do you recall when those took  
9 place?

10 A. No, sir.

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 MR. ROMAN: We are good with that.

19 MR. BENNETT: So far, assuming it  
20 is within the scope of his authorization, he  
21 can answer about questions on that page.

22 MR. ROMAN: Okay.

23 MR. BENNETT: Just so you know,  
24 it's 5333 is where it starts that we have  
25 issues.

Page 173

1           Q.     So this is a page -- page 288  
2     appears within the 2017 annual report of HIDTA,  
3     and you see the cover page on page 283, if you  
4     want to go back to that.

5           A.     I saw that page. Thank you.

6           Q.     So this page has got -- the top  
7     says HIDTA Threat Assessment And Strategy  
8     Assessment; do you see that?

9           A.     Yes, sir.

10          Q.     In the second paragraph, it reads,  
11         "In response to the 2017 Ohio HIDTA drug threat  
12         survey and during the majority of interviews  
13         conducted in 2017, law enforcement officials  
14         identified opioids as the greatest drug threat  
15         in the Ohio HIDTA region"; do you see that?

16          A.     Yes, sir.

17          Q.     If you go above that, to the first  
18         paragraph, it say, "Fentanyl and its analogs  
19         have become the primary drug threat in the Ohio  
20         HIDTA region"; do you see that?

21          A.     Yes, sir.

22          Q.     And first of all, do you agree with  
23         that statement?

24           MR. LEDLIE: Object to the form of  
25         the question.

Page 174

1           A.       Yes, sir.

2           Q.       And since when have, in your  
3       mind -- I'm sorry.

4                   Is this true today, that fentanyl  
5       and its analogs are still the primary drug  
6       threats in the Ohio HIDTA region?

7                   MR. BENNETT: Objection. Scope.  
8       To the extent that your personal opinion would  
9       rely on nonpublic facts, you are not authorized  
10      to answer.

11                  To the extent that you have a  
12      personal opinion that is based on public facts  
13      or are non-DOJ information, you may answer.

14                  A.       I'm not going to be allowed to  
15      answer that one.

16                  Q.       I think I know what is going to  
17      happen when I ask about this, but before 2017,  
18      did you have a view as to whether or not  
19      fentanyl and its analogs had become the primary  
20      drug threat in the Ohio HIDTA region?

21                  MR. BENNETT: Objection. Scope.  
22      Same instruction.

23                  A.       Again, all my information would  
24      have come through as a TFO.

25                  MR. BENNETT: Just so you are

Page 175

1 aware, officer, if you obtain public  
2 information as a TFO, you may answer based on  
3 that public information.

4 THE WITNESS: Yes, sir.

5 Q. The next sentence on page 288  
6 reads, "The primary source of the fentanyl  
7 being transported and sold in Ohio is Mexican  
8 DTOs"; do you see that?

9 A. I'm not sure which paragraph you  
10 are in, sir.

11 Q. Still the first paragraph, second  
12 sentence.

13 A. Okay.

14 Q. Do you see that now?

15 A. I do.

16 Q. DTO is an acronym for drug  
17 trafficking organization?

18 A. That's correct.

19 Q. And do you agree or disagree with  
20 that statement that as of 2017, the primary  
21 source of the fentanyl being transported and  
22 sold in Ohio was Mexican DTOs?

23 MR. BENNETT: Objection. Scope.

24 Same instruction.

25 A. My answer would be the same, that I

1 would be unauthorized to answer that.

2 Q. Could you please turn to the page  
3 Bates stamped 336.

4 | Page

5 | Page

6

7 | Page

8 believe this witness -- and I'm going to  
9 instruct this witness that he's not authorized  
10 in the scope of his authorization to answer any  
11 questions based on any official information he  
12 has received from the Department of Justice and  
13 his work as a task force officer.

14 Q. Are you going to follow that  
15 instruction?

16 A. Absolutely.

17 MR. ROMAN: Why don't we go ahead  
18 and take a lunch break.

19 (Recess taken.)

20 MR. WINKELMAN: On the record.

EXAMINATION OF PATRICK LEONARD

22 BY MR. WINKELMAN:

Q. Good afternoon, Det. Leonard.

24 A. Good afternoon.

Q. Before the break, you and my

1 esteemed colleague had been talking a little  
2 bit about counterfeit drugs, and I think you  
3 referred to them as pill presses; is that  
4 right?

5 A. Some of the investigations that  
6 were pill presses have been investigated, yes.

7 Q. And how would you define a pill  
8 press?

9 A. A machine used to fabricate a pill.

10 Q. More generally, how would you  
11 describe pill press operations?

12 A. I've seen pill presses that produce  
13 one pill at a time and some that produce  
14 multiple pills, but there is a die-cast in it  
15 that when the press is activated, it would  
16 create a pill to look like another pill, a  
17 legitimate pill.

18 Q. Generally speaking, who operates  
19 these pill presses?

20 A. Criminal element.

21 Q. Is it always a criminal element?

22 A. Well, if they are making illicit  
23 drugs, yes.

24 Q. Are you aware of any of the  
25 defendants in this case operating pill presses?

Page 178

1                   MR. LEDLIE: Object to the form of  
2 the question.

3                   A. No, I'm not.

4                   Q. Would you agree that pill presses  
5 have contributed to the opioid crisis or  
6 epidemic?

7                   A. Yes.

8                   Q. Could you say what portion or do  
9 you have an estimate of what portion of your  
10 investigations involved pill presses?

11                  A. It's a small percentages. I  
12 couldn't give you a percentage, but it's -- I  
13 don't spend a lot of time on pill presses.

14                  Q. Under 50 percent then?

15                  A. Yes.

16                  Q. Under 25?

17                  A. Yes.

18                  Q. You mentioned several other forms  
19 of diversion as well: pill theft, pill sharing,  
20 prescription forgery; do you remember that?

21                  A. Yes.

22                  Q. Do those also involve criminal  
23 elements?

24                  A. Yes.

25                  Q. And are you aware of the defendants

Page 179

1       in this case engaging in any of those  
2       activities?

3                    MR. BENNETT: Objection. Scope.  
4       To the extent that that calls on you to discuss  
5       investigations you have done as a task force  
6       officer, you are not authorized to answer;  
7       otherwise, you may answer.

8                    A.     I guess I'm not authorized to  
9       answer.

10                  Q.     Fair enough. Does the task force  
11       monitor diversion or keep statistics on the  
12       rate of diversion on either Akron or Summit  
13       County or Northern Ohio?

14                  MR. BENNETT: Objection. You may  
15       answer regarding publicly disclosed.

16                  A VOICE: Is anybody there?

17                  MR. ROMAN: Sorry. We have only  
18       been going a few minutes here, maybe four or  
19       five questions, and we were on mute. I'm  
20       sorry.

21                  MR. BENNETT: And again, I'll state  
22       my objection to the scope. You are not  
23       authorized to disclose internal statistics that  
24       DEA have produced to the task force. To the  
25       extent that it is public or publicized, you may

1 answer.

2 Q. And to clarify, I'm only asking if  
3 the statistics are kept, not what those  
4 statistics are.

5 A. Either way, I don't supply  
6 information towards the statistics or produce  
7 any.

8 Q. You're not aware of any statistics  
9 kept by the task force?

10 A. I'm not aware of any.

11 MR. LEDLIE: Object to the form of  
12 the question.

13 Q. To the best of your knowledge, do  
14 some of the diverted opioids that you  
15 investigate or become aware of come from  
16 outside of the Akron area?

17 A. Yes.

18 Q. What percentage would you say?

19 A. That would again fall under the  
20 scope of my position as a task force officer.

21 Q. Are you aware of the percentage  
22 though?

23 MR. BENNETT: Objection. You are  
24 not authorized to answer any information  
25 regarding nonpublic information you have

1           obtained as a task force officer.

2           Q.       Again, I'm asking whether you are  
3           only aware of that information, as  
4           distinguished from not that that information  
5           is.

6           MR. BENNETT: Understood, but the  
7           fact of whether is exists or not is in and of  
8           itself DEA DOJ information that he is not  
9           authorized to disclose.

10          A.       I'm going to refuse to answer.

11          Q.       Understood. But is it your  
12           understanding that some opioids, for example,  
13           come from, say, Southern Ohio?

14          A.       Yes.

15          Q.       And surrounding states?

16          A.       Yes.

17          Q.       And from foreign countries?

18          A.       As an Akron police officer prior to  
19           becoming a task force officer, I don't know  
20           that I've ever investigated any that have come  
21           from legitimate -- if are we talking about  
22           prescription medications from out of the  
23           country.

24          Q.       What about nonprescription  
25           medications?

1           A.     I don't know that I've had any  
2 investigations on any investigations prior to  
3 2012 that came from out of the country.  
4 Prescription, scheduled, nonscheduled, I don't  
5 know that I did any investigations.

6           Q.     Have you had any investigations  
7 that involve counterfeit drugs coming from  
8 foreign countries?

9           A.     Again, I'm not authorized to answer  
10 that question, from my position.

11          Q.     Do you have any knowledge -- do you  
12 have any knowledge of drugs coming from foreign  
13 countries, counterfeit or otherwise, that were  
14 part of publicly filed and concluded  
15 investigations?

16          A.     I do not.

17          Q.     And again, do you have any  
18 knowledge of either the Akron Police Department  
19 or the task force keeping any statistics on  
20 foreignly imported prescription opioids or  
21 nonprescription drugs or counterfeit drugs?

22           MR. BENNETT: Objection to the  
23 scope. To the extent that it calls for  
24 information regarding task force statistics  
25 that are kept and not publicized, he is not

Page 183

1       authorized to answer that question. Otherwise,  
2       from the DEA's perspective, you may answer.

3           A.     I don't have any information on  
4       those records being kept or information on  
5       those records.

6           Q.     Do you yourself keep those type of  
7       statistics?

8           A.     No, sir.

9           Q.     When does the task force or the  
10       Akron Police Department decide to open a case,  
11       or how do cases come to it?

12          A.     We get different cases in various  
13       ways. It can be a citizen calling, complaining  
14       that a family member is being overprescribed by  
15       a certain physician. We could get some of the  
16       overdoses where the prescription bottles are  
17       available at the scene of the overdose. We  
18       have sources that provide information. There  
19       is really no end way to say that someone  
20       couldn't start a case. It's just how the  
21       information is gathered or who sends it to us.

22          Q.     What would you say is the most  
23       common source of the case coming to you?

24          A.     Gosh, I get them in so many  
25       different, various ways, that I don't know if

1       there is a common one.

2                   For the doctor shopper, it would be  
3       a pharmacist calling me and saying that they  
4       tried to put a prescription through, and it was  
5       denied because another prescription had already  
6       been filled on that insurance and someone was  
7       doctor shopping.

8           Q.      Have you ever received tips from  
9       other government agencies or law enforcement  
10      agencies?

11         A.      Yes.

12         Q.      Any other policies or procedures on  
13       when you open a case or when you have received  
14       enough information to begin an investigation?

15           MR. BENNETT: Objection. To the  
16       extent that this calls for the internal  
17       deliberative process of starting cases within  
18       the DEA, you are not authorized to answer,  
19       regarding any particular policies or  
20       thresholds.

21           To the extent you can answer  
22       generally, or non-DEA information, then the  
23       scope doesn't apply in that situation.

24         MR. LEDLIE: As to the time period  
25       prior to 2012 when you were working exclusively

for the City of Akron, I would join in the  
objection, to the extent that any policy or  
procedures of the police department on how to  
investigate cases would fall into the police  
officer privilege, police investigation  
privilege.

7 MR. BENNETT: Generally speaking.

8           A.       Generally speaking, I would open  
9 cases.   If I received a number of cases at the  
10 same time within the same timeframe, I would  
11 prioritize the cases and work the cases that  
12 were more egregious than others, until I could  
13 catch up with the lower-level cases.

14 Q. Did the types of sources you relied  
15 on for cases change once you joined the task  
16 force, moving from ATD to the task force?

17           A.       I don't know if it really changed  
18       or if we had -- because I was a task force  
19       officer, I have access to additional  
20       information that I wouldn't have had as an  
21       Akron police officer.

Q. What type of information is that?

23 MR. BENNETT: Objection. That's  
24 outside of the scope of his authorization. As  
25 far as what information that he needed as a

Page 186

1 task force officer to generate cases, he is not  
2 authorized to answer that question.

3 - - - - -

4 (Thereupon, Deposition Exhibit 12,  
5 Designated Confidential, Email  
6 Chain, Subject: Expert Witness,  
7 Beginning with Bates Label AKRON

8 [REDACTED]

9 of identification.)

10 - - - - -

11 Q. Det. Leonard, I'm handing you what

12 [REDACTED]

13 Det. Leonard, do you recognize this  
14 document?

15 A. I do.

16 Q. I've handed you what has been  
17 marked as Exhibit 12.

18 MR. BENNETT: This doesn't look  
19 like the same tab. It doesn't look like tab  
20 19.

21 MR. LEDLIE: This is an email dated

22 [REDACTED]

23 MR. WINKELMAN: Sorry. Tab 18.

24 MR. LEDLIE: Before you ask your  
25 question, I have a -- this seems to go into

Page 187

1       police investigation of a particular case, but  
2       I guess I'll wait to hear what your question  
3       is.

4                    MR. BENNETT: And actually, before  
5       we get to the question, the United States  
6       intends to claw this document back. It  
7       includes internal deliberations and prosecutorial  
8       information. It also includes information  
9       protected by criminal rule 6(e), which is grand  
10      jury information. So Det. Leonard will not be  
11      authorized to answer any questions regarding  
12      the particulars of contents of these emails.

13                  MR. WINKELMAN: Do you intend to  
14       claw this back in its entirety or provide a  
15       redacted version?

16                  MR. BENNETT: So, counsel, I don't  
17       have a good answer for your question, and the  
18       reason I don't have an answer is I haven't had  
19       a chance to fully review the document. We just  
20       received it this morning.

21                  I understand this to be part of the  
22       internal deliberations on prosecuting a  
23       particular case and the use of expert witnesses  
24       by the United States and by the detective, and  
25       as a result, it is going to have to be vetted

Page 188

1 before I know if it is going to be clawed back  
2 in full or clawed back and redacted.

3 MR. WINKELMAN: Just to clarify,  
4 there are portions of this email that are  
5 pre-2012. I assume your objection does not  
6 extend to those communications?

7 MR. BENNETT: It does extend to  
8 those communications, because I believe this  
9 case began as a joint case, and that the  
10 communications with the expert, potential  
11 expert were -- it was in a continuing course of  
12 conduct that resulted in a federal case, is my  
13 understanding. So we will have to review it.

14 MR. WINKELMAN: Well, we reserve  
15 our -- your position is noted.

16 MR. BENNETT: Any portions of the  
17 emails that were pre-2012, you will be able to  
18 ask about, but I don't know enough about the  
19 case to know whether any of that is going to be  
20 implicated after 2012.

21 So at this point, he's not  
22 authorized to answer any questions about the  
23 contents of these emails, and we will certainly  
24 be seeking some redaction, if not clawing back  
25 the document in full.

1           Q.     Well, just to get this on the  
2 record, this is an email dated June 25, 2012,  
3 [REDACTED]  
4 correct?

5           A.     Yes, sir, that's correct.

6           Q.     And the opening or the top email is  
7 from your email address?

8           A.     That's correct, from my Akron email  
9 address.

10          Q.     From your Akron Police Department  
11 email address?

12          A.     Yes, sir.

13          Q.     Not your Department of Justice  
14 email address?

15          A.     That's correct.

16          Q.     And I may have already asked you  
17 this, but do you recognize this document?

18          A.     Yes, sir, I do.

19          Q.     And did you send this in the  
20 regular course of your business?

21           MR. BENNETT: Objection. Beyond  
22 the scope of his authorization. He's not  
23 authorized to answer that question.

24          Q.     Are you going to follow that  
25 instruction?

Page 190

1 A. Yes, I am.

2 Q. All right. We will move on.

3 MR. WINKELMAN: This one is tab 19.

4 - - - - -

5 (Thereupon, Deposition Exhibit 13,  
6 Designated Confidential, 6-30-2014  
7 Email Chain, with Attachment,  
8 Beginning with Bates Label SUMMIT  
9 001233671, was marked for purposes  
10 of identification.)

11 - - - - -

12 Q. Det. Leonard, I've just handed you  
13 what has been marked Exhibit 13.

14 A. Yes.

15 Q. Do you recognize this document?

16 A. I saw it earlier today.

17 Q. And this is an email from  
18 Courtney --

19 [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED]

21 number SUMMIT\_001233671.

22 A. Correct.

23 Q. You were a recipient on this email?

24 A. Yes, I was.

25 Q. Did you receive this email in the

Page 191

1           normal course of your business?

2           A.       I did.

3           Q.       Did you maintain it in the normal  
4           course of your business?

5           MR. LEDLIE: Object to the form of  
6           the question.

7           A.       It was maintained in my email. I  
8           didn't do anything special to maintain it.

9           Q.       Do you have any reason to believe  
10          this is not the same email you received?

11          A.       I do not.

12          Q.       Det. Leonard, this, to the best of  
13          my knowledge, was not included in Akron's  
14          document production. Do you know why that  
15          would be?

16          A.       I do not.

17          Q.       Did you provide all your emails for  
18          your attorneys to review when you were  
19          collecting documents?

20          A.       My secretary provided everything.

21          Q.       And if I could direct your  
22          attention to pages starting at 701.

23          A.       Okay.

24          MR. BENNETT: So, counsel, since we  
25          didn't see this document before this morning,

Page 192

1       is that part of the Model Policy on the Use of  
2       Opioid Analgesics, or is this something else?  
3       701 comes after 700, but I don't know if it is  
4       all the same document. It is all under the  
5       same tab, but I don't know if it's all the same  
6       document.

7                   So to the extent that this is from  
8       the state medical board, we don't have an  
9       objection. To the extent that this is an  
10      internal document regarding how investigations  
11      are done, we would object to this witness  
12      answering any questions about it, and we would  
13      seek to have this clawed back if this is a DEA  
14      document.

15                  MR. LEDLIE: If it happens to be an  
16      Akron document, we would have a separate  
17      objection and clawback, because this seems to  
18      go into the tools and techniques and red flags  
19      to investigate positions, starting the 701.

20                  I have no objection to the document  
21      entitled Model Policy on the Use of Opioid  
22      Analgesics.

23                  Q.     Det. Leonard, this document,  
24      starting at 701, to the best of your knowledge,  
25      is this part of the Model Policy on the Use of

1       Opioids and Analgesics in the Treatment of  
2       Chronic Pain?

3           A.     I don't believe it is.

4           Q.     You believe it is a separate  
5       document?

6           A.     Yes, sir, I do believe it is a  
7       separate document.

8           Q.     Do you know what this document is?

9           A.     Starting on 701?

10          Q.     Yes.

11          A.     This would be --

12              MR. LEDLIE: I'm going to instruct  
13       the witness not to answer, if doing so would  
14       discuss anything --

15              MR. BENNETT: Counsel, can we go  
16       off the record and speak to the witness about  
17       privilege issues outside the room?

18              MR. WINKELMAN: Yes.

19              (Pause.)

20              MR. WINKELMAN: Let's go back on  
21       the record. Counsel, would you mind putting  
22       that on the record.

23              [REDACTED]

24              [REDACTED]

25              [REDACTED]

Page 194

1                   MR. WINKELMAN: 701, I believe.

2                   MR. BENNETT: What did I say?

3                   MR. WINKELMAN: You said 71.

4                   MR. BENNETT: 701 through 719,  
5 ending numbers of 719.

6                   After talking with the witness, we  
7 are not able to determine the origin of this  
8 document, and as a result, we do not have a  
9 position at this point on whether it be clawed  
10 back on not.

11                  To the extent that it is a  
12 Department of Justice or otherwise a federal  
13 document, we will be seeking to claw that back  
14 once we can determine that. To the extent it  
15 is not a federal document, we don't have the  
16 authority to claw it back; however, we will  
17 instruct the witness that he is not authorized  
18 to discuss any of the techniques in here or  
19 confirm whether or not he does or uses any of  
20 these techniques and whether he agrees with the  
21 statements made in this document.

22                  Q. Det. Leonard, do you recognize this  
23 document, again starting at page 701?

24                  A. I just saw it today, so I didn't  
25 recognize it as previously seeing it, no.

1           Q.     And this document appears to  
2 describe -- it says, quote, "Here are some red  
3 flags to look out for with respect to a  
4 physician's medical practice"?

5           A.     That's correct.

6           Q.     So this appears to list things that  
7 one would look for when investigating  
8 physicians?

9                MR. BENNETT: Objection. To the  
10 extent you are asking the officer to confirm  
11 that that's what one would look for, you are  
12 not authorized to answer the scopes and  
13 techniques that you may use or confirm any of  
14 the information at this time.

15              MR. WINKELMAN: I'm just asking at  
16 this point what the document describes.

17              MR. BENNETT: Objection. He said  
18 he had never seen the document before. I  
19 object to the form of the question. The  
20 document speaks for itself.

21            Q.     You can answer.

22            A.     I'm not authorized to answer at  
23 this time.

24            Q.     Prior to joining the task force,  
25 are these the types of red flags you would use

Page 196

1 to look or investigate physicians?

2 MR. LEDLIE: I would instruct the  
3 witness that as to the tools and techniques of  
4 his investigation of drug diversion cases  
5 during his time for the City of Akron, that  
6 under the police investigation privilege, he is  
7 instructed not to answer that question.

8 If you can answer it from some  
9 other source of information, you can do so.

10 A. I cannot answer it from any other  
11 source of information, so I'm unauthorized to  
12 answer at this time.

13 Q. Have you received similar docs  
14 describing red flags for other forms of  
15 diversion?

16 MR. BENNETT: Objection. To the  
17 extent that it would be beyond the scope of  
18 your authorization, that you received it as DOJ  
19 information or DEA information.

20 Q. I'm just asking whether you  
21 received the documents, not exactly what they  
22 describe.

23 A. I still don't believe I'm  
24 authorized to answer at this time.

25 A VOICE: Are we still waiting for

Page 197

1           the witness to come back?

2                    MR. ROMAN: Sorry. We were --  
3                   again, you missed about three or four minutes.  
4                   I'll take the fall again. I'm sorry. We won't  
5                   do it again, promise.

6                   Q. Det. Leonard, in deciding whether  
7                   to investigate diversion or in the course of  
8                   investigating diversion, have you ever tried to  
9                   determine the total number of opioids being  
10                  prescribed to residents in Akron, Summit  
11                  County, or Cuyahoga County?

12                  MR. BENNETT: Objection. Beyond  
13                  the scope of your authorization, to the extent  
14                  the calls for the investigations you've done as  
15                  a task force officer or information involved in  
16                  your investigation as a task force officer.

17                  A. I'm unauthorized to answer that  
18                  question.

19                  Q. And again, at this point, I'm just  
20                  asking whether you have tried to determine  
21                  those total numbers. I'm not asking what those  
22                  numbers are.

23                  MR. BENNETT: Objection. Same  
24                  instruction. Beyond the scope of his  
25                  authorization, as far as what he did,

Page 198

1       regardless of whether he tells you the results  
2       of what he did.

3           A.       Again, I'll follow the advice of  
4       counsel.

5           Q.       This might get the same response  
6       then, but have you ever tried to compare the  
7       number of opioids against the number of -- the  
8       population of those cities or counties?

9           MR. BENNETT: Objection. Outside  
10      the scope of his authorization, to the extent  
11      that it calls for information he tried to  
12      obtain as a result of his task force officer  
13      investigation.

14           A.       I'll try to answer.

15           Q.       Understood. Would you agree that  
16      there are reasons why the number of pills in an  
17      area, even if they were greater or higher  
18      relative to the local population, there might  
19      be justification for that?

20           MR. BENNETT: Objection. To the  
21      extent this calls for a personal opinion  
22      regarding nonpublic facts or information you  
23      acquired as part of the performance of your  
24      duties as a task force officer, if you can  
25      answer not relating on nonpublic facts or

1 information, then you may answer.

2 A. I'm not able to answer on nonpublic  
3 facts and information.

4 Q. If there were a hospital located in  
5 a county or a town with a relatively small  
6 population, would it surprise you to see a high  
7 volume of opioids distributed in that area?

8 A. I guess I would be curious as to  
9 how high the volume would be. It could  
10 and -- the answer is yes or no, based on, you  
11 know, the facts and circumstances surrounding  
12 it.

13 Q. Why might it not surprise you or  
14 under what facts or circumstances would it not  
15 be surprising to see a high ratio in a small  
16 town that has a hospital?

17 MR. LEDLIE: Objection to the form  
18 of the question. The hypothetical is improper.  
19 Scope.

20 MR. BENNETT: I'll also remind you  
21 of the scope, that you can't use nonpublic  
22 facts or information to answer the hypothetical  
23 opinion question.

24 A. Growing up in the Steel Valley, the  
25 Youngstown area, there seems to be a high

Page 200

1 percentage of women developing breast cancer.  
2 I don't know if it has to do with the steel  
3 mills. So different areas could generate  
4 different medical conditions.

5 Q. Why would those medical conditions  
6 or the prevalence of those medical conditions  
7 lead to a higher volumes of opioids?

8 A. I think cancer leads to  
9 prescriptions of opioids. So I'm saying there  
10 could be a medical condition in some areas that  
11 may lead to that.

12 Q. And in some of those cases, the  
13 prescription of opioids would be medically  
14 necessary?

15 A. In some, yes.

16 MR. LEDLIE: Object to the form of  
17 the question. It calls for expert testimony.

18 Q. Det. Leonard, you had previously  
19 testified, I believe, that prior to 2012, you  
20 did not have access to the ARCOS database?

21 A. That's correct.

22 Q. Once you joined the task force, did  
23 you obtain access to ARCOS?

24 MR. BENNETT: Hold on a second.

25 Okay. You can answer that.

1           A.     I do have access to ARCOS. I don't  
2 have -- use it personally, so if I wanted to  
3 request a password for the ARCOS database, I  
4 could have one, but I don't access ARCOS.

5           Q.     Do you ever use ARCOS or the data  
6 collected from ARCOS?

7                MR. BENNETT: Objection. To the  
8 extent that this calls for you to disclose  
9 investigative techniques, the effectiveness of  
10 which would be impaired, you may not answer.  
11 To the extent that it relates to your general  
12 duties as a task force officer, you may answer  
13 at a high, general level regarding your duties.

14           A.     At a general level, I do have  
15 access to information from ARCOS.

16           Q.     But you don't have your own user  
17 name and password?

18           A.     I don't use it enough to have my  
19 own user name and password.

20           Q.     Someone else gives you that  
21 information?

22                MR. BENNETT: You can answer that  
23 question.

24           A.     Yes.

25           Q.     For what purpose?

Page 202

1                   MR. BENNETT: Objection. To the  
2 extent that this calls for investigative  
3 techniques, you may not answer. To the extent  
4 it relates to your general duties as a task  
5 force officer, you may answer regarding your  
6 general duties.

7                   A. It relates to investigative  
8 techniques, so I'm not authorized to answer.

9                   Q. Even generally speaking?

10                  A. Yes.

11                  Q. When did you start using ARCOS?  
12 Did you use it right when you joined the task  
13 force, or did it start later?

14                  A. I believe I have only logged in one  
15 or two times, and it has been several years  
16 since. Somewhere in the middle, a couple years  
17 after I was there. It isn't a database that a  
18 new guy in the unit is going to jump in and  
19 say, "Let me jump into ARCOS." I didn't know  
20 it existed for a couple of years.

21                  Q. A couple of years when you were on  
22 the task force?

23                  A. Yes. Still learning the systems  
24 and learning the databases and learning the  
25 different computer systems that the DEA

1 provided.

2 Q. Are you aware of anyone else at the  
3 task force who uses ARCOS?

4 MR. BENNETT: Object. To the  
5 extent it calls for investigative techniques of  
6 the task force, you are not authorized to  
7 answer. Regarding the general duties as a task  
8 force officer, you can answer whether there are  
9 general duties of people at the task force  
10 generally who use ARCOS.

11 A. So the diversion investigators  
12 normally use ARCOS, all agents and TFOs have  
13 access to ARCOS. I don't believe most TFOs  
14 typically use ARCOS.

15 Q. Do other members of the Akron  
16 Police Department have access to ARCOS?

17 A. Not that I'm aware of.

18 Q. None of them do?

19 A. No, sir. Can I clarify that? We  
20 do have other TFOs on the Akron Police  
21 Department that are assigned to different parts  
22 of the DEA. Whether they are on the other  
23 teams and they, I'm sure, would have access to  
24 some things, I'm not aware of. So there could  
25 be someone else on the Akron Police Department

Page 204

1       that has access. I'm not sure if they do or  
2       not.

3           Q.     So there are other members of the  
4       Akron Police Department that are assigned to  
5       other DEA task forces?

6           A.     Yes.

7           Q.     What task forces are those?

8           A.     They are just assigned to the DEA  
9       task force. I'm not sure that they all have  
10      names. They are not part of the TDS.

11          Q.     Do you have a general sense of what  
12      other types of task forces they are or what  
13      they are directed at?

14          A.     The general DEA, and they work  
15      illicit drugs. Whether it's the 3,000 foot  
16      overview, investigating cartels, money  
17      laundering, narcotics coming in from other  
18      countries, they are assigned to those task  
19      forces. They are not really task forces. They  
20      are assigned to those teams of the DEA.

21          Q.     Why wouldn't the task force member  
22      use ARCCOS?

23           MR. BENNETT: Objection. To the  
24      extent that this calls for investigative  
25      techniques, you are not authorized to answer

1       it. To the extent that you can answer at a  
2       high level of general duties of task force  
3       officers, you may answer.

4           A.     I guess at a high level, we have  
5       intelligence analysts that can run that  
6       information for me, and then I can get that  
7       information from them.

8           Q.     So they can give you the data  
9       that's available on ARCOs without you having to  
10      access it?

11          A.     Yes.

12          Q.     Would it be more difficult to do  
13      your job without ARCOs?

14           MR. BENNETT: Objection, to the  
15       extent that it calls for you to disclose your  
16       investigative techniques. You can talk about  
17       your general duties. You may answer.

18          A.     It's a good tool.

19          Q.     You find it useful?

20          A.     I can say it is useful, yes.

21          Q.     Would your job be more difficult  
22      without it?

23          A.     Potentially, yes.

24          Q.     It would potentially be harder to  
25      identify diversion without ARCOs?

1                          MR. LEDLIE: Object to the form of  
2                          the question.

3                          A. I don't know that it would make a  
4                          huge difference. The majority of cases I have  
5                          worked over the last 22 years as a narcotics  
6                          detective I haven't used ARCOS. It's been  
7                          beneficial when it has been used, but it isn't  
8                          something that I rely on, that's bread and  
9                          butter that I have to have. Does that sound  
10                        fair enough?

11                        Q. That sounds fair enough.

12                        A. Okay.

13                        Q. Det. Leonard, have you ever heard  
14                        the term "suspicious special order report"?

15                        A. Yes, I have.

16                        Q. In what context?

17                        A. Something that would generate  
18                        possibly the investigation into why a party or  
19                        a -- if someone is receiving too much  
20                        medication, someone received shipments ahead of  
21                        time, if pharmacies were receiving more  
22                        medication than they needed or should have.  
23                        I'm not sure I am answering your question.

24                        Q. Well, to start off, in your  
25                        experience, who drafts a suspicious order

Page 207

1 report, who prepares them?

2 A. I don't know who prepares them. I  
3 know I have seen a couple of emails reference  
4 suspicious order reports in my employment from  
5 the 3,000 foot of DEA. I have never had one  
6 directed to me or had one assigned to me to  
7 investigate. I know they exist, and I have  
8 heard the term before.

9 Q. How have you received them?

10 MR. LEDLIE: Object to the form of  
11 the question.

12 A. I'm not 100 percent sure. I  
13 believe it was an email that listed a  
14 suspicious order report, but, like I say, I  
15 have had so many emails, it's not something I  
16 would follow up on, so I wouldn't pay  
17 particular attention to that email, that it's  
18 going to be assigned to me.

19 I may assist somebody else, but  
20 it's not going to be a case I'm going to open.

21 Q. You wouldn't follow up if you had  
22 received a suspicious order report?

23 A. That email wouldn't have come to  
24 just me. It would have gone to the whole unit  
25 and other individuals, and it would have been

1 more than an information gathering, to let me  
2 know that, hey, this is going on, your  
3 assistance may be needed later to assist in  
4 this.

5 Q. Would somebody else be responsible  
6 for following up on a suspicious order report?

7 A. Yes, sir.

8 Q. Who would that be?

9 THE WITNESS: Am I allowed to say  
10 who I think it would be?

11 MR. BENNETT: To the extent that  
12 you can answer about the general operations of  
13 the task force but not the specific  
14 investigative techniques. So to the extent  
15 that you can answer generally what happens, if  
16 you know, then you may answer that.

17 A. Generally, I believe that would  
18 fall under the diversion unit, and that's  
19 separate from the TDS.

20 Q. This is a diversion unit with the  
21 APD or with the --

22 A. No, no. We're talking about the  
23 DEA.

24 Q. With the DEA?

25 A. Yes.

1           Q.     Are there particular agents who  
2     would be responsible for that?

3           A.     There are diversion investigators  
4     who would be responsible for that.

5           Q.     What are their names?

6           A.     I don't know. I don't believe I'm  
7     at liberty to say their names.

8                   MR. BENNETT: I was going to  
9     object. It is beyond the scope of his  
10    authorization. It's not something he's  
11    authorized to discuss.

12          Q.     So just to clarify, do you not know  
13    or are you not authorized?

14          A.     No. I know the agents' names, the  
15    investigators' names. I don't believe I'm  
16    authorized to say their names.

17          Q.     But those agents would be  
18    responsible for following up on suspicious  
19    order reports?

20          A.     Right. They are not agents, they  
21    are investigators.

22          Q.     What's the difference?

23                   THE WITNESS: Am I allowed to say?

24                   MR. BENNETT: You can answer that  
25    question.

1           A.       Agents are sworn law enforcement,  
2       they carry guns and have arrest authority.  
3       Diversion investigators do not have arrest  
4       authority and do not carry sidearms.

5           Q.       So these investigators would be  
6       responsible for following up on suspicious  
7       order reports?

8           A.       Yes, sir.

9           Q.       Det. Leonard, we are handing you  
10      Summit County and City of Akron, Ohio Plaintiff  
11      First Amended Responses and Objections to  
12      Distributor Defendants' First Set of  
13      Interrogatories.

14           MR. BENNETT:   Do you have one more  
15      for me?

16           MR. WINKELMAN:   It should be tab  
17      20.

18           Q.       Det. Leonard, do you recognize this  
19      document?

20           A.       I don't believe I have ever seen  
21      this before. This isn't our -- is this our  
22      litigation for this event?

23           MR. LEDLIE:   It's not the  
24      complaint.

25           Q.       It's not the complaint.

Page 211

1           A.     I don't know what this is. I've  
2 never seen this.

3           Q.     If I can direct your  
4 attention -- do you have any reason to believe  
5 that this isn't what it purports to be, which  
6 is the city and the county's responses to  
7 interrogatories?

8           A.     I don't have any reason to believe  
9 it's not what you say it is.

10          Q.     If I can direct your attention to  
11 pages 8 through 12.

12                 These pages list pharmacies that  
13 allegedly have suspicious orders of controlled  
14 substances based on ARCOS data.

15          A.     Okay.

16          MR. LEDLIE: Would there be a  
17 confidential designation for this questioning,  
18 to the extent it involves ARCOS data?

19          MR. WINKELMAN: Of course.

20          Q.     Do you see this list of pharmacies?

21          A.     I do.

22          Q.     And before this litigation, were  
23 you aware that these pharmacies had high  
24 volumes of opioid orders?

25          MR. BENNETT: Objection. Scope.

1 To the extent that this calls for you to answer  
2 regarding information you received or  
3 investigations you did as a DEA task force  
4 officer, you are not authorized to answer.

5 To the extent that it's information  
6 you obtained prior to becoming a task force  
7 officer or public officer, you may answer. You  
8 also may answer if any of these individuals  
9 have been charged and convicted of a diversion  
10 crime.

11 A. So your question again, please,  
12 sir?

13 Q. Were you aware that any of  
14 these -- the pharmacies on this list had high  
15 volumes before this case?

16 A. No. I never had any information  
17 with reference to any volumes at any of the  
18 pharmacies.

19 Q. Are you aware whether any of the  
20 defendants filed suspicious order reports about  
21 any of these pharmacies?

22 A. No. I never received suspicious  
23 order reports as an Akron police officer prior  
24 to 2012, and I'm unauthorized to answer after  
25 2012.

1           Q.     And are you aware whether any of  
2     the defendants blocked orders to any of these  
3     pharmacies or reported orders to the DEA as  
4     suspicious?

5           A.     Not information that was ever  
6     provided to me.

7           Q.     Do you have any idea why that  
8     information would not have been provided to  
9     you?

10           MR. BENNETT: Objection. To the  
11     extent that this calls for the internal  
12     deliberative process of the Department of  
13     Justice, you are not authorized to answer.  
14     Also to the extent that it calls for the  
15     investigative techniques, you are not  
16     authorized to answer.

17           A.     I'm unauthorized to answer.

18           Q.     Det. Leonard, during your last --  
19     or the first deposition, you testified that you  
20     started using OARRS, O-A-R-R-S, before 2012?

21           A.     Correct.

22           Q.     Have you since then?

23           A.     Yes, sir.

24           Q.     When?

25           MR. BENNETT: Objection. To the

Page 214

1 extent -- this is beyond the scope of his  
2 authorization. To the extent that that is a  
3 technique that you use as a DEA task force  
4 officer, you are not authorized to answer that  
5 question.

6 A. I'm not authorized to answer.

7 Q. At a high level, what do you use it  
8 for?

9 A. I'm not authorized to answer that I  
10 use it, so I can't authorize if I did, what I  
11 used it for.

12 THE WITNESS: Am I correct in that?

13 MR. LEDLIE: For the period of time  
14 prior to 2012, at a very general level, without  
15 revealing your case investigations, I think you  
16 may answer that question for the period of time  
17 that you were exclusively Akron.

18 A. I would use it to generate patient  
19 profiles, which showed the person's name, the  
20 pharmacy name, the number of prescriptions,  
21 locations, the date they were filled, the date  
22 they were written, and any dates that  
23 overlapped on cash pay or insurance pay  
24 patients.

25 Q. So did OARRS primarily contain

1 patient information then?

2 A. It did. It also contained  
3 physician prescribing information. If you run  
4 a physician OARRS, it would show all the  
5 patients that a particular physician wrote  
6 controlled narcotics to.

7 Q. So would you run both physicians  
8 and patients through OARRS, depending on who  
9 you were investigating?

10 MR. LEDLIE: As to the details of  
11 any specific case, I instruct the witness not  
12 to answer under the --

13 A. I run a physician OARRS if I was  
14 investigating a physician.

15 Q. So if you were investigating a  
16 particular patient, say, doctor shopping, you  
17 might run the patient's name?

18 A. Yes.

19 Q. Do you ever use OARRS to check the  
20 volume of medications dispensed by a pharmacy?

21 MR. LEDLIE: Objection and  
22 instruction not to answer as to whether you use  
23 OARRS to check the volume of medications, if  
24 that is a tool and technique of an  
25 investigative process.

Page 216

1           A.     There is limited access for law  
2 enforcement to OARRS. Some of those search  
3 engines can only be performed by personnel from  
4 the Ohio Board of Pharmacy who manages the  
5 OARRS account. I don't have access to do that  
6 and I'm not sure if they do.

7           Q.     So you have access to patient  
8 information and physicians, but not pharmacies?

9           A.     Correct.

10          Q.     Does OARRS contain information  
11 about pharmaceutical distributors?

12          A.     Not that I'm aware of.

13          Q.     Has OARRS, have you found it useful  
14 in investigating diversion?

15          A.     Yes.

16          Q.     Would your job be more difficult  
17 without it?

18          A.     More time consuming.

19          Q.     How so?

20          A.     Prior to OARRS, I had to go to  
21 every individual pharmacy, have the pharmacist  
22 print a patient profile, and then I had to go  
23 and enter it in an EXCEL spreadsheet and do  
24 what OARRS did manually.

25          Q.     So without OARRS, it would be more

1 difficult to detect diversion?

2 A. I don't know if difficult is the  
3 right word. It wouldn't be any more difficult,  
4 it would just be more time consuming to process  
5 it.

6 Q. So it would take more time?

7 A. Yes, sir.

8 Q. It would take more effort?

9 A. Yes, sir.

10 MR. LEDLIE: Object to the form of  
11 the question.

12 Q. So it would take more effort?

13 A. It would.

14 Q. It would take more resources?

15 A. Yes.

16 Q. So it would be more difficult;  
17 wouldn't it?

18 A. Okay. Yes.

19 Q. Do you know whether any of the  
20 defendants have access to OARRS?

21 A. I do not know that.

22 Q. To the best of your knowledge, do  
23 they have access to OARRS?

24 A. It depends. In this litigation?

25 Q. In this litigation.

1           A.     I have no idea if they have access  
2 to OARRS. Wait. I guess I'm looking -- each  
3 individual pharmacy -- a pharmacist does have  
4 access to OARRS. A pharmacist can run a  
5 patient and check OARRS. At a corporate level,  
6 I don't know what they do, but individual  
7 pharmacists do have access to OARRS.

8           Q.     Individual pharmacists do, but you  
9 don't know whether a pharmaceutical distributor  
10 has access to OARRS?

11          A.     Correct.

12          Q.     But you would agree if they didn't  
13 have access to OARRS, it would be more  
14 difficult for them to detect diversion?

15           MR. LEDLIE: Objection to the form  
16 of the question.

17          A.     Are we talking about pharmacists?

18          Q.     Any entity that didn't have access  
19 to OARRS, it would be more difficult for them  
20 to detect diversion?

21          A.     Yes.

22                - - - - -

23                (Thereupon, Deposition Exhibit 14,  
24 Designated Confidential, Email  
25 Chain, Beginning with Bates Label

1                   AKRON 000367833, was marked for  
2                   purposes of identification.)  
3                   - - - - -

4                   Q.         Det. Leonard, I'm handing you what  
5                   has been marked as Exhibit 14.

6                   MR. LEDLIE: This document I  
7                   discovered today, and we are invoking  
8                   attorney-client privilege for Summit County as  
9                   to the communications between the prosecutor  
10                  and this officer about a case. So I'm  
11                  instructing you not -- I'm clawing this back,  
12                  and I would ask that this not be addressed at  
13                  this deposition.

14                  MR. BENNETT: What was your exhibit  
15                  number?

16                  Q.         We will move on.

17                  Det. Leonard, would it be fair to  
18                  say that there are bases to your  
19                  investigations?

20                  That is sort of an unfair question.

21                  MR. LEDLIE: Objection.

22                  MR. BENNETT: To the extent that it  
23                  does not call for -- objection. Scope. You  
24                  are not authorized to answer the question, to  
25                  the extent that it calls for your law

Page 220

1 enforcement investigative techniques. To the  
2 extent that you can answer it generally or  
3 outside the scope of your task force duties,  
4 you may answer.

5 Q. Let me just break it up a little  
6 bit.

7 At some stage you become aware or  
8 get evidence or become aware of a case, and so  
9 you open an investigation.

10 A. Okay.

11 Q. And then there is an investigation,  
12 correct?

13 A. Yes.

14 Q. And if there is enough evidence,  
15 there may be charges or an indictment?

16 A. Yes.

17 Q. And then if that moves forward,  
18 there might be a conviction?

19 A. Correct.

20 Q. At what point in that process, if  
21 at any point, where you have a suspected  
22 diverter, do you notify, say, the board of  
23 pharmacy or the Ohio Medical Board or the DEA  
24 about that suspected diverter?

25 MR. BENNETT: Objection. Scope.

1 To the extent that it calls for your  
2 investigative techniques, you are not  
3 authorized to answer it. If you can answer it  
4 regarding your general duties as a task force  
5 officer or your practice outside of being a  
6 task force officer, then you may answer it.

7 A. Anything I'm doing with the DEA I'm  
8 going to have a case open and they are already  
9 going to know about it. Unless it is a  
10 pharmacy, a pharmacist, or something involved  
11 in a pharmacy, I would not notify the pharmacy  
12 board. Unless it is as medical professional, I  
13 would not notify the medical board. So there  
14 is no 3,000 foot overview.

15 If it is just a diversion case, it  
16 would be processed through the courts and  
17 handled appropriately.

18 Q. Let's take this one at a time. If  
19 it did involve -- if your investigation did  
20 involve a pharmacy, say, that was suspected of  
21 oversupplying, at what point would you notify  
22 the board of pharmacy?

23 MR. BENNETT: Objection. Same  
24 instruction.

25 A. I'm trying to think of a way if I

1       could answer it.

2           Q.     Let me ask it this way: When you  
3 receive a tip about a suspected -- say a  
4 suspected pharmacy, do you notify the board of  
5 pharmacy at that point?

6           A.     If I can confirm a tip -- I will  
7 try to confirm or deny it first before I waste  
8 their time. If I can confirm that it is a  
9 legitimate tip and an investigation is needed,  
10 then I will contact them and either ask for  
11 their assistance or give them what I've got and  
12 pass the case over to them.

13          Q.     How do you confirm a tip before you  
14 have begun an investigation?

15           MR. LEDLIE: Object to the form of  
16 the question, and to the extent that that calls  
17 for the deliberative process of your  
18 investigation under the police officer law  
19 enforcement privilege.

20           MR. BENNETT: And also object to  
21 the extent that it relates to law enforcement  
22 investigative techniques or internal  
23 deliberations of DEA, you are not authorized to  
24 answer the question. But if you can answer it  
25 without disclosing techniques or the internal

Page 223

1           deliberative process, then you can answer.

2           A.       I cannot answer without disclosing  
3           those techniques, so I'm going to not answer  
4           that question.

5           Q.       In the case of a physician, similar  
6           question, at what point would you notify the  
7           Ohio Medical Board of a suspected diverter?

8           MR. BENNETT: Objection. Same  
9           instruction.

10           MR. LEDLIE: Objection. Same  
11           instruction.

12           A.       In the 3,000 foot overview, there  
13           is no -- if we needed assistance, I would  
14           contact them for assistance, whether it was  
15           manpower, if we needed some. If not, then they  
16           would find out when the case came to a close.

17           Q.       In the meantime, what if anything  
18           do you do to prevent that entity or suspected  
19           entity from engaging in further diversion?

20           MR. LEDLIE: Object to the form of  
21           the question, and to the extent that it goes  
22           into your police investigative techniques and  
23           tools, I'm going to instruct you not to answer  
24           as to your time as a city employee.

25           MR. BENNETT: I'm also objecting.

1 Scope. You are not authorized to answer to the  
2 extent that this question calls for  
3 investigative techniques or the internal  
4 deliberative process of the Department of  
5 Justice, DEA.

6 A. So from the 3,000 foot, we would  
7 conduct an investigation using all of our  
8 different techniques, and if we are able to  
9 produce enough evidence that it's something we  
10 move forward on, then we would move forward  
11 with charges.

12 Q. Is there anything you can do to  
13 prevent that entity from, say, if it is a  
14 pharmacy prescribing or a physician from  
15 overprescribing while the investigation is  
16 ongoing?

17 MR. LEDLIE: Object to the form as  
18 hypothetical. To the extent you are asking  
19 about individual cases, I'm going to instruct  
20 the witness not to answer any investigative  
21 techniques.

22 MR. BENNETT: Objection. Same.

23 A. I'm not going to be able to answer  
24 that question.

25 Q. Once you completed an

1 investigation, do you make efforts to get the  
2 board of pharmacy or the medical board to  
3 withdraw or revoke the licenses of, say, a  
4 pharmacy or a physician?

5 MR. BENNETT: Objection. To the  
6 extent that it calls for you to talk about your  
7 investigative techniques or your deliberative  
8 process, you can't, if you can talk about your  
9 general duties as part of your practice, then  
10 you can answer.

11 A. Generally speaking, that wouldn't  
12 be something that I would go to a medical board  
13 or a pharmacy board for. If it's a case I'm  
14 working, I would have that as part of something  
15 I would discuss with my AUSA assigned to the  
16 case. By AUSA, I'm talking about Assistant  
17 United States Attorney.

18 Q. So you personally don't make  
19 efforts or reach out to, say, the board of  
20 pharmacy or the medical board to ensure that a  
21 physician's, say, license was revoked?

22 MR. LEDLIE: I'm going to instruct  
23 the witness not to answer as to any specific  
24 case, but if you can answer the question  
25 generally.

1           A.     Generally, I have reached out to  
2 those agencies to assist in revoking licenses.

3           Q.     Do you know how long it generally  
4 takes them to do that?

5           A.     No, I don't have a timeframe for  
6 you.

7           Q.     How long does a typical  
8 investigation last, one of your investigations?

9           A.     I guess it depends on what it is.  
10          If it's a doctor shopper, it could be done in a  
11 couple weeks. If it's a physician, it could  
12 take years.

13          Q.     With a physician, say, what's the  
14 average time?

15          A.     It is going to be at least between  
16 a year and two. Physician investigations don't  
17 happen quickly.

18          Q.     And what marks the beginning of the  
19 investigation; is it getting the tip or getting  
20 some -- getting the case from some other  
21 source?

22          A.     I guess the beginning of the  
23 investigation would be when I start putting my  
24 manhours or our unit starts putting our  
25 manhours into the investigation. If someone

Page 227

1       else had a case, if the pharmacy board had a  
2       case for a year and then called us, my case  
3       didn't start until they called us.

4           Q.     So the case might not get opened  
5       until, say, maybe sometime after you get your  
6       first tip about the case?

7           MR. LEDLIE: Object to the form.  
8       Misstates his testimony.

9           A.     A lot of times when manhours are  
10      put towards a case prior to the case initiation  
11      being opened on the case, in my mind, that case  
12      was still opened prior to the case initiation  
13      being typed up and started, even though those  
14      manhours were prior to the initiation on paper  
15      of the case.

16           Q.     But you marked the beginning of the  
17      case is when you start putting manhours on it?

18           A.     Yes, sir.

19           Q.     And what marks the end of the case?

20           A.     Normally conviction.

21           Q.     And it is possible that you get a  
22      tip well before you start putting manhours in  
23      the case?

24           A.     Yes, sir.

25           Q.     And as you said, the diversion or

Page 228

1       suspected diversion may have been going on for  
2       some time before that even?

3           A.     I expect it was going on sometime  
4       before that. I don't get the tip the first  
5       time someone diverts.

6           Q.     Would it be fair to say that during  
7       the course of your investigation then, any  
8       delay in the investigation allows the diversion  
9       to continue?

10          MR. BENNETT: Objection. You are  
11       not authorized to answer that question  
12       regarding the investigative techniques or the  
13       specifics of the investigation.

14          A.     I guess my best answer for that  
15       would be that we continue to investigate. We  
16       don't have one investigation open at a time.  
17       So we can't control what people continue to do  
18       while we are investigating.

19          Q.     So they could continue diverting  
20       prescription opioids while the investigation is  
21       ongoing?

22          A.     Potentially, yes.

23          Q.     And in your view, have the board of  
24       pharmacy and the medical board been acting  
25       quickly enough to withdraw licenses of

1                   physicians and pharmacies?

2                   MR. BENNETT: Objection. Beyond  
3                   the scope of your authorization, to the extent  
4                   that that is nonpublic information you required  
5                   as a task force officer. To the extent that  
6                   you can answer with an opinion that does not  
7                   involve nonpublic Department of Justice task  
8                   force information, then you can answer.

9                   A. I don't have any nonpublic  
10                  information on that, so I'm not going to be  
11                  able to answer that.

12                  Q. This might get the same response,  
13                  but in your view, have the board of pharmacy  
14                  and the medical board, do they provide  
15                  effective oversight of physicians and  
16                  pharmacies?

17                  MR. LEDLIE: Object to the form of  
18                  the question. Calls for a medical and  
19                  pharmaceutical degree, which he has neither.

20                  MR. BENNETT: Objection. Same  
21                  response from me.

22                  A. Decline to answer.

23                  Q. On the basis of those instructions?

24                  A. Yes.

25                  Q. Not because you don't know?

1                   MR. BENNETT: Objection. Beyond  
2 the scope of his authorization, to the extent  
3 that it calls for him to talk about knowledge  
4 he has as a result of a task force officer  
5 that's nonpublic.

6                   A. I'm going to refuse to answer on  
7 those grounds.

8                   Q. Det. Leonard, do you have any sort  
9 of metric or scale for, say, measuring the  
10 magnitude of the cases you work on, or rating  
11 them, comparing them against each other, say,  
12 based on volume or number of prescriptions  
13 written or something along those lines?

14                  MR. BENNETT: Objection. Beyond  
15 the scope of his authorization, to the extent  
16 that it is calling for the internal  
17 deliberative process of DEA regarding measuring  
18 cases and thresholds. To the extent that you  
19 can answer personally what you o, that's not  
20 related to the DEA's internal deliberative  
21 process, you may answer.

22                  A. Prior to 2012, I would look at the  
23 volume of prescriptions that were either forged  
24 or overlapped, the number of pills that a  
25 prescription was written for, the sheer volume

1       of some patients.

2                   If those were -- if I had ten cases  
3 and, you know, one of them only had two  
4 overlaps and a Vicodin of 20 pills, it would  
5 fall to the bottom the pile. So the higher  
6 volume cases I would try to work first. I  
7 didn't really have an official go-by sheet in  
8 my head that I would categorize them, but I  
9 would try to evaluate them as which ones were  
10 more important and which ones were more  
11 pressing at the time.

12                  MR. LEDLIE: If we can take a  
13 break. I need a break.

14                  MR. WINKELMAN: Okay.

15                  (Recess taken.)

16                  MR. WINKELMAN: Back on.

17                  Q.     So before we continue, just to  
18 create a record, I wanted to go back to what we  
19 had introduced as Exhibit 12. It was a June  
20 25, 2012 email, and our understanding is that  
21 the United States has taken the position that  
22 communications in this document, even those  
23 that predate Patrick Leonard's joining the DEA  
24 task force, so for example in 2011, are  
25 nonetheless covered by the DEA's law

Page 232

1 enforcement privilege, and that because this  
2 later became a federal case, it is  
3 retroactively covered by a privilege, and I'm  
4 sure Mr. Bennett will correct me if that  
5 misstates their position or clarify as  
6 necessary.

7 MR. BENNETT: So let me clarify,  
8 just slightly. This witness is not authorized,  
9 so it is outside of the scope of his  
10 authorization, to discuss specific  
11 investigations or activities. Because it is my  
12 understanding that this case ultimately became  
13 a federal investigation and federal case, it's  
14 beyond the scope of his authorization to talk  
15 about that, regardless of whether he was a  
16 deputized task force officer at the time of the  
17 activities or not.

18 So that would be our position. So  
19 he's not authorized under subsection A of his  
20 authorization letter dated March 20, 2019.

21 MR. LEDLIE: And there was an  
22 additional objection that the City of Akron had  
23 as to that this discussion with an expert  
24 witness about a case falls under the law  
25 enforcement privilege, but a separate issue

1 than the DEA's.

2 MR. BENNETT: And there may be  
3 privileges, and that's the reason why these  
4 issues have to be vetted through DOJ and DEA  
5 prior to the witness being authorized on behalf  
6 of the United States, but what I'm saying is  
7 I'm not asserting a specific privilege at this  
8 point, I'm only asserting that he's not  
9 authorized to talk about this under his  
10 authorization letter, and that it may very well  
11 be privileged.

12 MR. WINKELMAN: To clarify, both  
13 Akron and DOJ are asserting that privilege,  
14 that objection or position at this point,  
15 despite this being a case that was publicly  
16 filed and I believe led to a conviction,  
17 correct?

18 MR. LEDLIE: The fact that it is  
19 public -- you can ask him those questions, but  
20 the contents of this email about his  
21 communications with an expert is the source of  
22 at least Akron's.

23 MR. BENNETT: And he is authorized  
24 to identify individuals who -- including  
25 physicians, who were charged and convicted of

Page 234

1 diversion-related offense, but if you want to  
2 ask him if the doctor was charged and convicted  
3 and the nature of those charges and  
4 convictions, he can answer that, but the  
5 individual activities or his investigation of  
6 that charge specific to those investigations he  
7 is not authorized.

8 MR. WINKELMAN: So he cannot  
9 testify as to, in your position, cannot testify  
10 as to how he acquired that case and what he did  
11 in the course of the investigation?

12 MR. BENNETT: Correct. My position  
13 would be he's not authorized to answer those  
14 questions. How he acquired the case or what he  
15 did once he acquired the information, that's  
16 beyond the scope of his authorization.

17 MR. WINKELMAN: Understood.

18 Q. Thank you for your patience, Det.  
19 Leonard.

20 A. No problem.

21 Q. I believe when we concluded, you  
22 had just been mentioning a little bit or  
23 discussing a little bit about prioritizing your  
24 cases based on which ones appeared to be higher  
25 volume, and I just wanted to clarify -- well,

Page 235

1       first of all; is that accurate? Do you  
2 remember that testimony?

3           A.     Yes, and that is accurate.

4           Q.     As I understood it, you said that  
5 was pre-2012. To the extent you are able to  
6 do -- also do that same sort of measurement or  
7 ranking post 2012, once you joined the task  
8 force?

9           MR. BENNETT: Objection. Beyond  
10 the scope his authorization, to the extent it  
11 would disclose the internal deliberative  
12 process of the DEA.

13           To the extent you can answer about  
14 your personal choices, unrelated to the  
15 internal deliberative process of the DEA, you  
16 can answer.

17           A.     I don't have authorization to  
18 answer that question.

19           Q.     But pre-2012, you did engage in  
20 that type of ranking or prioritization?

21           A.     I would prioritize cases, yes.

22           Q.     Based on volume?

23           MR. LEDLIE: Object to the form of  
24 the question.

25           A.     Yes, volume was one of the

1 ingredients I used to prioritize cases.

2 Q. What are the other ingredients?

3 MR. LEDLIE: Objection. Asked and  
4 answered.

5 A. If I answer that more, it is  
6 telling you how I did my cases, how I decide it  
7 would be part of my case investigations.

8 Q. When you say higher volume, volume  
9 based on what, volume of pills, volume of  
10 prescription, or some other measure?

11 A. A combination of both. Whether it  
12 is the number of total prescriptions or number  
13 of total pills that were on the prescriptions.

14 Q. Based on that measurement, what is  
15 the biggest opioid case you have ever worked  
16 on?

17 A. I have no idea.

18 MR. BENNETT: Objection. To the  
19 extent that it calls for investigation and  
20 activities you have done as a task force  
21 officer. If you are asking him pre-2012, then  
22 I don't have an objection, or if it is a  
23 publicly filed case that resulted in a  
24 conviction, you may answer the biggest  
25 conviction that you have received in a case you

1       were involved in.

2           A.     Probably the biggest conviction was  
3       the Dr. Harper case, where he pled guilty and  
4       was sentenced to 12 years in federal prison.

5           Q.     To go back for one moment, I asked  
6       what the other ingredients you used to  
7       prioritize your cases were, and you said that  
8       your answer would be telling how you did your  
9       cases, how you decide would be part of your  
10      case investigation.

11           I just want to clarify. Are you  
12       saying you don't know the answer to that  
13       question, or are you saying that it is  
14       following your counsel's instruction not to  
15       answer that question?

16           A.     I'm following my counsel's  
17       instruction on investigative techniques and how  
18       the cases are decided.

19           Q.     Thank you.

20           You mentioned a Harper case, or the  
21       Dr. Harper case was among the convicted cases  
22       or cases that ended in convictions was one of  
23       the largest you worked on. Do you recall any  
24       others?

25           A.     Dr. Gregory Ingram pled guilty to,

1       I think it was, 48 counts of trafficking. I'm  
2       just trying to make sure in my head which ones  
3       were convicted and which ones are still open.  
4       So I'm not sure which ones have been closed  
5       yet. So I apologize for not --

6           Q.      Take your time.

7           A.      Dr. Heim is closed. I don't know  
8       what his sentencing guidelines were. That's  
9       probably all I can tell you right now.

10          Q.      Were those all pharmacist cases?

11          A.      I don't know what you mean by  
12       pharmacist cases. Those are physicians.

13          Q.      Sorry. These are all physician  
14       cases, physicians who allegedly were  
15       overprescribing?

16          A.      Yes. Not necessarily  
17       overprescribing, but some were illegally  
18       prescribing.

19          Q.      Writing false prescriptions?

20          A.      Yes, sir.

21          Q.      Where did these cases occur?

22          A.      Those were federal cases, so they  
23       were where the 9th District Court of the United  
24       States, Northern Ohio.

25          Q.      What drugs are being converted in

1       those cases?

2           A.     Let's see, OxyContin, oxycodone,  
3     Vicodin, Xanax. Those were in all the cases.

4           At the time it was primarily Vicodin.

5           Harper was the OxyContin,  
6     oxycodone, Xanax, Vicodin, Demerol. Morphine,  
7     I believe, was in the Harper case. Mostly  
8     Percocet for Dr. Ingram.

9           Q.     Who is responsible for  
10   investigating that type of diversion, as a  
11   general matter?

12           MR. LEDLIE: Object to the form of  
13   the question. Vague.

14           A.     It would fall into a couple  
15   different places. The Harper investigation  
16   started with myself and a member of the board  
17   of pharmacy. Dr. Ingram started with the City  
18   of Akron. Dr. Heim was a federal case. Just  
19   on where the referral comes from and who they  
20   go to.

21           Q.     Do you maintain, based on this  
22   metric you have provided about higher volume  
23   cases and lower volume case, let's start with  
24   pre-2012, did you maintain a record or any sort  
25   of written report or summary of the cases that

Page 240

1       you ranked by volume?

2           A.     No, I did not. Those cases I was  
3       talking about volume were doctor shoppers.  
4       Those were all doctor shopper cases that I was  
5       referring to.

6           Q.     Not physician cases?

7           A.     No.

8           Q.     And again, did you maintain any  
9       sort of record of those cases you measured by  
10      volume?

11          A.     No.

12          Q.     Post 2012, did you keep any sort of  
13      record like that?

14          A.     No.

15            MR. BENNETT: Objection. Outside  
16       the scope of his authorization, to the extent  
17       that it calls for the activities as the DEA  
18       TDS. Otherwise, you can answer.

19            MR. LEDLIE: He did. He said no.

20          Q.     Have you participated in any  
21       programs to combat the opioid epidemic or  
22       crisis, whichever you prefer, other than  
23       criminal investigations and prosecutions?

24          A.     I'm a member of the Summit County  
25       Opiate Task Force.

1 Q. What is that?

2 A. It is a group of individuals that  
3 get together and meets, and there is mental  
4 healthcare workers, there is county workers,  
5 the Summit County judges, investigators get  
6 together to try to brainstorm and find ideas to  
7 help curb the problem.

8 Q. How long have you been a member of  
9 that group?

10 A. Probably about a year now. Maybe a  
11 little over that.

12 Q. Do you know how long it has  
13 existed?

14 A. No, I do not.

15 Q. Does it have a budget?

16 A. I don't know.

17 Q. Does it expend any resources on  
18 programs or things like that or provide other  
19 programs to others?

20 A. All the programs offered are  
21 through the county, so they are -- I don't know  
22 what everybody's individual budget is. I know  
23 that judges show up on -- you know, these are  
24 Monday to Friday, 8:00 to 5:00, so everyone is  
25 on the city or county dime when they are there,

Page 242

1 so no one is incurring additional expenses. I  
2 don't know if they have a budget assigned to  
3 that group or not.

4 Q. What is that group's purpose or  
5 mission?

6 A. The Summit County drug initiative  
7 for opiates, so I'm sure the goal is to protect  
8 the citizens of Akron and get those that need  
9 help.

10 Q. I guess one way of putting this is  
11 if they appear to have meetings on a regular  
12 basis, but don't offer programs, so what  
13 exactly --

14 A. I didn't say they don't offer  
15 programs. I said I don't know what programs  
16 they offer if they do, and I don't know what  
17 their budget is if they have one.

18 Q. So they might offer programs, you  
19 are just not aware?

20 A. Correct.

21 Q. Who else is involved in that task  
22 force?

23 A. The judges, there is the Summit  
24 County Health Department, other law enforcement  
25 agencies.

Page 243

1 Q. Which agencies?

2 A. The Cuyahoga Falls Police  
3 Department, I know I have seen the chief of  
4 police, Chief Davis there at those meetings.

5 Q. Which judges are there?

6 A. Judge Joy -- Judge Joy -- I can't  
7 think of her last name. Normally it is the  
8 drug court judges that interact with a lot of  
9 the defendants in drug cases.

10 Q. Has that task force been  
11 successful?

12 A. I don't know what the results are.

13 Q. Has there been any measurement of  
14 its results?

15 A. Not that I'm aware of.

16 Q. I think I just have a few more.

17 Det. Leonard, do you use email in  
18 your work?

19 A. I do.

20 Q. How many email addresses do you  
21 have?

22 A. Two.

23 Q. Is one of them

24 [REDACTED]

25 A. Yes.

Page 244

1 [REDACTED] [REDACTED]  
2 usdoj.gov?

3 A. Yes.

4 Q. No other email addresses?

5 A. No. Those are my work. There is a  
6 shortened one for the DEA internal, I think,  
7 but it's the same email.

8 Q. What do you mean by that, a shorter  
9 one?

10 [REDACTED]  
11 [REDACTED]  
12 to the same email address, it's just written  
13 different.

14 Q. Do you delete old emails?

15 A. Some, yes. None since this case  
16 started.

17 Q. How old are your oldest emails?

18 A. I don't know. When I log in, I  
19 read the new emails. I don't go back and read  
20 old emails.

21 Q. You don't know how far back they  
22 go?

23 A. No.

24 Q. Have you submitted all of your  
25 potential relevant emails to counsel for

Page 245

1 review?

2 A. My secretary submitted everything.

3 Q. Did you personally review those?

4 A. I did not.

5 Q. Do you use a cellphone for work?

6 A. I do.

7 Q. And do you send text messages for  
8 work?

9 A. Sometimes, yes.

10 Q. Did you make your messages  
11 available to counsel so they could review your  
12 text messages?

13 A. No, I did not.

14 MR. WINKELMAN: I think we are  
15 ready to take a break.

16 (Pause.)

17 EXAMINATION OF PATRICK LEONARD

18 BY MR. MOYLAN:

19 Q. Det. Leonard, my name is a Daniel  
20 Moylan for the CVS defendants. I'm going to  
21 have just a few questions about the Dr. Harper  
22 investigation, and I can represent that I've  
23 had a chance to review the exhibits that I plan  
24 to use with counsel for the government,  
25 Mr. Bennett and his colleague at the DEA, and I

Page 246

1 think we have reached an agreement that at  
2 least with respect to the federal government's  
3 objections, some of the things we have heard  
4 today that they do not object to these points,  
5 but if there are further --

6 MR. BENNETT: In other words, there  
7 were certain documents that you showed us that  
8 we did object to. It's my understanding you  
9 are not using those?

10 MR. MOYLAN: Correct.

11 MR. BENNETT: The documents that we  
12 did indicate to you that we did have objections  
13 on behalf of the DEA, there were some of those  
14 as well. Assuming you show him the ones we had  
15 no objection to, that would be our position,  
16 but if something comes up as we are going  
17 through, if there is a misunderstanding, we  
18 will let you know.

19 MR. MOYLAN: Sure. Thank you.

20 MR. LEDLIE: For the record,  
21 counsel has not shared any of these with me.  
22 So we will be dealing with them as we go  
23 through them.

24 MR. MOYLAN: Right.

25 Q. So I'm going to start with Exhibit

Page 247

1 15 .

2 - - - - -

3 (Thereupon, Deposition Exhibit 15 ,  
4 2014 Final Rule Rescheduling of  
5 Hydrocodone Combination Products  
6 from Schedule III to Schedule II ,  
7 was marked for purposes of  
8 identification.)

9 - - - - -

10 Q. There were just a few questions in  
11 your prior deposition about the rescheduling of  
12 hydrocodone combination products. I know it's  
13 been a while, but do you remember you were  
14 asked a little bit about that in your prior  
15 deposition?

16 A. I do.

17 Q. And you may have indicated that you  
18 believe that that took place sometime in 2008?

19 A. Yeah. I believe it was like  
20 October, if my memory serves me correctly.

21 Q. Right. What I wanted to do is go  
22 through this exhibit and see if this may  
23 refresh your memory as to when this scheduling  
24 occurred.

25 It's a little bit hard to read, and

Page 248

1 I apologize for that, but this is a document  
2 that is the final rule for the rescheduling of  
3 hydrocodone combination products from schedule  
4 III to schedule II.

5 As you look through the document,  
6 do you see the indication that this is the  
7 final rule for that rescheduling?

8 A. Yes, sir, I do.

9 Q. And in the first sentence under the  
10 heading Summary, the document speaks that,  
11 "With the issuance of this final rule, the  
12 Administrator of the Drug Enforcement  
13 Administration reschedules hydrocodone  
14 combination products from schedule III to  
15 schedule II of the Controlled Substances Act";  
16 do you see that?

17 A. Yes, sir.

18 Q. And do you see that the effective  
19 date for this rule is October 6, 2014?

20 A. Yes, sir, I do.

21 Q. Does that refresh your recollection  
22 as to the timeframe when hydrocodone  
23 combination products were rescheduled?

24 A. Yes, sir.

25 Q. That's all with that.

1                         - - - - -  
2                         (Thereupon, Deposition Exhibit 16,  
3                         Designated Confidential, 9-25-2010  
4                         Email, Bates Label AKRON 001142381,  
5                         was marked for purposes of  
6                         identification.)  
7                         - - - - -

8                         Q.         I just handed you what has been  
9                         marked as Exhibit 16. This is an email chain  
10                        from a person named -REDACTED-, to  
11                        you dated September 25, 2010. Does this look  
12                        like a document that you have seen before  
13                        today?

14                        A.         Yes, sir.

15                        Q.         And do you recall receiving this in  
16                        connection with your work as an Akron police  
17                        detective?

18                        A.         I do. I couldn't tell you the  
19                        exact time I remember seeing it, but, yes.

20                        MR. LEDLIE: This appears to be a  
21                        confidential tip from a pharmacist, and it  
22                        should be clawed back under the police  
23                        investigation privilege.

24                        MR. MOYLAN: Now, with respect to  
25                        that request, or the indication that you would

Page 250

1 like to claw this back, would there be -- let  
2 me ask the witness first, if I can.

3 Q. Is this a person who you regard as  
4 a confidential source?

5 MR. LEDLIE: I would instruct -- I  
6 would instruct the witness that he can answer  
7 whether it is a source. Whether or not they  
8 are confidential, I think is irrelevant to the  
9 privilege of law enforcement.

10 A. Yes, -REDACTED- is a source.

11 Q. Okay. Without going into specifics  
12 about that individual, you can confirm from the  
13 information that you are looking at that he is  
14 a pharmacist?

15 MR. LEDLIE: I would ask that you  
16 not use this document to answer that question,  
17 but if you have an independent recollection of  
18 his status, then you can, but I'm clawing back  
19 this document and I don't think there should be  
20 any questions about this document. If you want  
21 to ask about the subject matter, go ahead.

22 MR. MOYLAN: I think what we might  
23 want to do is the possibility of redacting  
24 information to the extent it concerns a  
25 confidential source, if you have an opportunity

Page 251

1 to confirm that it is a confidential source.

2 MR. LEDLIE: It doesn't matter to  
3 me whether it is confidential or not. This is  
4 the details of an investigation, the tools and  
5 techniques of his craft, and I believe it is  
6 privileged under the law enforcement privilege.  
7 So I don't think that --

8 MR. MOYLAN: So to confirm, your  
9 position is that the receipt of an email from a  
10 third party is a technique used by law  
11 enforcement?

12 MR. LEDLIE: A source, a source of  
13 information about a potential diversion case,  
14 yes, absolutely.

15 MR. MOYLAN: To the extent it  
16 concerns a confidential source, I think we  
17 would be amenable to the redaction of the name,  
18 but to suggest that this is a technique used by  
19 law enforcement, we would disagree with that.

20 MR. LEDLIE: Your position is  
21 noted.

22 Q. In connection with the  
23 investigation of Dr. Harper, in general, do you  
24 believe that you received tips from pharmacists  
25 about his prescribing practices?

Page 252

1                   MR. BENNETT: Objection. Beyond  
2 the scope of his authorization. The Dr. Harper  
3 investigation and prosecution was a federal  
4 case, and under his authorization letter, he is  
5 not authorized to disclose any information  
6 regarding any investigations or activities.

7                   So to the extent it relates to Dr.  
8 Harper, he is not authorized to disclose  
9 activities and investigations.

10                  MR. MOYLAN: Let me clarify,  
11 because I think that the number of the  
12 documents that we have reviewed together  
13 earlier, including this document, do reflect  
14 tips from pharmacists, and I had understood  
15 that the government did not have an objection  
16 to the extent that those tips were prior to the  
17 Det. Leonard's work on the TDS.

18                  So let me limit the scope of my  
19 question to detective work for the Akron Police  
20 Department before February 2012.

21                  MR. BENNETT: And counsel, I'm not  
22 sure I understood, and this was probably my  
23 fault, that it was the Dr. Harper  
24 investigation.

25                  I understood you saying that he had

1 received tips, and again it may be my  
2 misunderstanding, that he had received tips  
3 about pharmacists prior to 2012, which I did  
4 tell you that we didn't have a position on  
5 because it was prior to 2012.

6 If, however, they were tips that  
7 related to a federal case, which is what Dr.  
8 Harper was, then that would be the -- even  
9 though it was prior to him joining the task  
10 force, it would still be the investigation and  
11 activities of a federal case, and as a result,  
12 he is not authorized at this time to answer any  
13 questions about that investigation.

14 MR. MOYLAN: I think every document  
15 that we reviewed concerned the Dr. Harper  
16 investigation, with the exception of several,  
17 and all of them I thought we were clear  
18 involved activities before Det. Leonard joined  
19 the TDS. So that's significantly different  
20 than what I think we discussed earlier.

21 MR. BENNETT: Counsel, may we take  
22 a moment with you off the record and look at  
23 those again?

24 MR. MOYLAN: Sure.

25 (Recess taken.)

1                   MR. MOYLAN: Back on the record.

2                   Just another brief statement. We  
3 have had a chance to confer with counsel for  
4 the government and counsel for the plaintiffs,  
5 and I think we have reached an accommodation  
6 with respect to some of the documents that we  
7 are going to review.

8                   In essence, what we talked about  
9 with respect to these exhibits is redacting the  
10 names of individual persons who came forward as  
11 part of the Harper investigation prior to 2012,  
12 and otherwise, the information on the documents  
13 would not be redacted or clawed back.

14                  If I am under a misconception with  
15 respect to that, as we go through them, we will  
16 discuss it again as need be, but that's my  
17 understanding of the concept that we agreed to.

18                  MR. BENNETT: That is correct. The  
19 only thing the government would add is that he  
20 can confirm whether or not he received this  
21 information, but that he will not be talking  
22 about any subsequent activities or what he did  
23 as a result of it or how it relates to any of  
24 his investigations of Dr. Harper.

25                  MR. MOYLAN: And that is correct.

1 I agree with that.

2 MR. LEDLIE: I have not seen all  
3 the documents. Conceptually, I believe we have  
4 an understanding, but we will just have to look  
5 at the documents where you are going.

6 MR. MOYLAN: Understood.

7 Understood. With respect to Exhibit 16, I  
8 think subject to what we discussed, this  
9 document would not be clawed back, but we would  
10 redact names as appropriate within the email.

11 Q. My question is, can you confirm  
12 that you did receive a complaint from a  
13 pharmacist at the location indicated on the  
14 email in or around September 2010 concerning  
15 Dr. Harper's prescribing practices?

16 A. Yes, sir, I did.

17 - - - - -

18 (Thereupon, Deposition Exhibit 17,  
19 Designated Confidential, 11-05-2010  
20 Email, Bates Label AKRON 000368237,  
21 was marked for purposes of  
22 identification.)

23 - - - - -

24 Q. I just handed you what has been  
25 marked as Exhibit 17. This is another email

1       that appears to be from -- well, it appears to  
2       be an exchange between you and another  
3       individual, based on the last email, the one  
4       earliest in time, it ends with a -REDACTED-. That  
5       email appears to be from November 5, 2010.

6                  As you look through the content of  
7       this, does this appear to be another complaint  
8       with respect to Dr. Harper that you received  
9       from a pharmacist?

10                 MR. LEDLIE: Before you can answer  
11       that, I have no objection to that question with  
12       respect to the email dated 8:27 a.m. I do  
13       believe that his response should be redacted in  
14       its entirety under the police investigation  
15       privilege.

16                 MR. BENNETT: We also believe this  
17       is beyond the scope of his authorization to  
18       answer any questions about the first part of  
19       that email, his response.

20                 MR. MOYLAN: I'm going to reserve  
21       on that, but I understand the position.

22                 Q. Just starting with the bottom  
23       email, can you confirm that this appears to  
24       have been a complaint received from a  
25       pharmacist concerning Dr. Harper's prescribing

Page 257

1           practices?

2           A.       Yes.

3                   - - - - -

4                   (Thereupon, Deposition Exhibit 18,  
5                   Designated Confidential, 4-11-2011  
6                   Email, Bates Label AKRON 001142386,  
7                   was marked for purposes of  
8                   identification.)

9                   - - - - -

10                  - - - - -

11                  (Thereupon, Deposition Exhibit 19,  
12                  Harper Search Warrant, was marked  
13                  for purposes of identification.)

14                  - - - - -

15           Q.       I'm going to show you two exhibits  
16           now together, and I can represent for the  
17           record that these came to us as an email with  
18           its attachment. So I'm going to hand you both  
19           together. I'm marking them separately. It  
20           will be Exhibits 18 and 19.

21                  My first question is really just a  
22           confirmation of something that we discussed off  
23           the record among counsel and the witness, but  
24           in looking at the email and the attached -- the  
25           attached warrant, it is a warrant affidavit

Page 258

1       actually, a search warrant affidavit, does this  
2       appear to be a document that you recall seeing  
3       before today?

4           A.     Yes, it is.

5           Q.     And does this email and search  
6       warrant and the evidence relate to the  
7       investigation of Dr. Harper?

8           A.     It does.

9           Q.     And do you understand that this  
10       warrant or this affidavit was in support of a  
11       state search warrant?

12          A.     It was, but to be specific, this is  
13       not an affidavit for the search warrant. This  
14       was a rough draft by Agent Tom Miksch that was  
15       sent to me. This is not what was typed by me  
16       and given to a judge as an affidavit. Part of  
17       this information is in there, but this is not  
18       the actual affidavit that was turned in.

19          Q.     Right. Understood. That makes  
20       perfect sense. And actually, if you wouldn't  
21       mind, I want to replace the version that's  
22       going to be in the record with a clean copy. I  
23       apologize for giving you my version.

24           MR. LEDLIE: And, counsel, to be  
25       clear, the identity of the individuals will be

1 redacted in this or not?

2 MR. MOYLAN: Yes. I think that's  
3 fair.

4 Q. And just on the draft search  
5 warrant affidavit, I would like to direct your  
6 attention to the third paragraph from the  
7 bottom that begins, "Statement to affiant by  
8 agent Thomas Miksch"; do you see the  
9 paragraph --

10 A. Yes, sir.

11 Q. -- that I'm referring to.

12 And do you see in that first  
13 sentence that I was reading from, a statement  
14 that, "On January 4, 2011, Miksch personally  
15 spoke with -REDACTED-, a licensed pharmacist  
16 in the State of Ohio, regarding Dr. Adolph  
17 Harper MD, a prescriber in Akron, Ohio"; do you  
18 see that?

19 MR. LEDLIE: Counsel, I requested  
20 and now move to strike that. If you could  
21 reask the question leaving out the identity of  
22 the pharmacist, her name.

23 MR. MOYLAN: That's fine. I  
24 apologize. Let me -- we will strike that or  
25 remove it from the deposition record, as we

1 can.

2 Q. But my question to you is: Is this  
3 consistent with your understanding of the  
4 investigation with Agent Miksch regarding a  
5 pharmacist by this name who came forward on or  
6 around January 4, 2011?

7 MR. BENNETT: Objection. Beyond  
8 the scope of his authorization. To the extent  
9 that are asking about his activities or his  
10 knowledge of the investigation, he can answer  
11 whether or not he is aware of the named  
12 pharmacist providing information, providing a  
13 tip.

14 A. I'm aware that -REDACTED- is a  
15 pharmacist and -REDACTED- did provide a tip.

16 MR. LEDLIE: Let's just redact it.  
17 A pharmacist.

18 A. I'm sorry. A pharmacist.

19 Q. Without referring to the name, try  
20 to remember that caveat, but without referring  
21 to -REDACTED- name again, do you know where this  
22 individual pharmacist worked?

23 A. I do.

24 Q. And where was that?

25 A. -REDACTED- worked at the Rite Aid Pharmacy

1       on Kenmore Boulevard in Akron.

2           Q.     Thank you. If I could direct your  
3       attention to the next page, in the middle of  
4       that page is a long paragraph that indicates  
5       that on March 15, 2011, Agent Miksch met with  
6       another individual, who is indicated as being a  
7       licensed pharmacist in the State of Ohio,  
8       regarding information about Dr. Harper; do you  
9       see that?

10          A.     I do.

11          Q.     And can you verify that this named  
12       individual is also a licensed pharmacist who  
13       came forward as part of the Harper  
14       investigation?

15          A.     Yes, I can.

16          Q.     And do you know where this  
17       individual worked?

18          A.     I do.

19          Q.     And where was that?

20          A.     [REDACTED] on [REDACTED]  
21       [REDACTED] in Akron.

22          Q.     Do you -- strike that. That's  
23       enough for that.

24                    - - - - -

25       (Thereupon, Deposition Exhibit 20,

Page 262

1                   Spreadsheet From the Ohio Board of  
2                   Medicine, was marked for purposes of  
3                   identification.)  
4                   - - - - -

5                   Q.       So with respect to Exhibit 20, I  
6                   can represent to you that this is a spreadsheet  
7                   that, based on an email, which we will not be  
8                   showing you today, that this -- that this chart  
9                   purports to be from the Ohio Board of Medicine,  
10                  and my question is, do you remember seeing this  
11                  document before today?

12                  A.       I do not.

13                  Q.       Do you see -- and again, consistent  
14                  with the conceptual agreement, we will be  
15                  redacting names of individual pharmacists and  
16                  patients from this document, but I have a few  
17                  questions about other points.

18                  As you look through the information  
19                  in the comment section on the right column, do  
20                  you see in the top third there is a reference  
21                  to Ritzman Pharmacy will no longer fill Harper  
22                  Rx's?

23                  A.       Yes.

24                  Q.       And do you see that that note is  
25                  indicated as having been entered on or around

1           December 15, 2010?

2           A.       Yes, that's correct.

3           Q.       Do you recognize the name of the  
4           pharmacist who -- first of all, when you see  
5           RPH, does that indicate to you that it is a  
6           pharmacist?

7           A.       Yes, sir, it does.

8           Q.       And do you recognize the name of  
9           that individual?

10          A.       I do.

11          Q.       You can confirm that it is somebody  
12         associated with the pharmacy that is in that  
13         column, or in the comment field?

14          A.       Yes, sir.

15          Q.       Do you see in the fourth column  
16         with the date November 30, 2009, this appears  
17         to be from Summa Barberton Hospital, and the  
18         comments say, "Loss privileges, not response to  
19         pages, not writing daily notes, dangerous  
20         surgery procedures"; do you see that?

21          A.       I do.

22          Q.       In reviewing the items in the  
23         comment section, do you believe that this list  
24         of complaints refers to the -- refers to  
25         complaints about Dr. Harper?

1           A.     I do.

2           Q.     And do you see that in one of the  
3 entries for March 3, 2011, there is a reference  
4 in the comment section to CVS, 1949 West Market  
5 Street?

6           A.     I do.

7           Q.     Does that indicate that a complaint  
8 was received on or around that day from a CVS  
9 Pharmacy?

10           MR. LEDLIE: Object to the form of  
11 the question as to whether that was  
12 contemporaneous with that date. It's not  
13 clear. You can answer.

14           A.     Yes, I agree that was a complaint  
15 from that pharmacist, reference Dr. Harper.

16           Q.     And on the item immediately above  
17 that, do you see there is another pharmacist  
18 named, and the comments say, "Rx's issues at  
19 CVS 590 East Market, excessive Rx's and sample  
20 drug cocktail, ICD, 9 issues"; do you see that?

21           A.     I do.

22           Q.     How do you interpret that  
23 statement?

24           MR. BENNETT: Beyond the scope of  
25 the authorization. To the extent you need

1 information or activities gathered during a  
2 specific investigation, you are not authorized  
3 to answer. If you can answer outside of  
4 activities of a specific investigation, if you  
5 happen to know, you may answer.

6 MR. LEDLIE: Not to disrupt the  
7 answer, I did notice there are people other  
8 than pharmacists, but anyone in the complaint  
9 field will be redacted as well as the patient  
10 field will be redacted, but go ahead.

11 A. I can't answer that without  
12 violating the order.

13 Q. Okay. But can you validate that a  
14 complaint was received from this pharmacist  
15 associated with CVS, 590 East Market?

16 A. Yes, I can.

17 Q. Can you also validate that two  
18 complaints were received on or around March 17,  
19 2011 from Walgreens pharmacists?

20 MR. LEDLIE: Object to the form of  
21 the question. Misstates the document. We have  
22 a date of complaint. It is in the comments.  
23 It's not clear that they were entered at the  
24 same time or anything.

25 A. There appears to be two complaints,

Page 266

1 both from Walgreens, [REDACTED],  
2 [REDACTED], on those dates.

3 Q. Okay. And can you also validate  
4 that a complaint was received from Giant Eagle,  
5 the next item on that chart, on or around March  
6 21, 2011?

7 A. Yes, that appears to be the case as  
8 well.

9 Q. Okay.

10 - - - - -  
11 (Thereupon, Deposition Exhibit 21,  
12 License Look Up, Adolph Harper, was  
13 marked for purposes of  
14 identification.)

15 - - - - -  
16 Q. This document I can represent I  
17 obtained online from the Ohio licensing portal  
18 available publicly, and this appears to refer  
19 to the voluntary surrender of Dr. Harper's  
20 investigation.

21 Without revealing anything that you  
22 may have learned as a TDS task force officer,  
23 is this consistent with your understanding of  
24 the public information about the status of Dr.  
25 Harper's license?

1           A.       Yes.

2           Q.       Is it also consistent with the  
3       timeframe that you are aware from public  
4       sources of the voluntary surrender of his  
5       license?

6           A.       Yes.

7                        - - - - -

8                       (Thereupon, Deposition Exhibit 22,  
9       Press Release From U.S. Attorney's  
10      Office For the Northern District of  
11      Ohio From February 1, 2015, was  
12      marked for purposes of  
13      identification.)

14                        - - - - -

15           Q.       I hand you what has been marked as  
16      Exhibit 22. This is a press release from the  
17      U.S. Attorney's Office for the Northern  
18      District of Ohio from February 1, 2015.

19                       As you had stated earlier, the  
20      press release states that Dr. Harper was  
21      sentenced to ten years in prison for illegally  
22      prescribing hundreds of thousands of doses of  
23      painkillers and other pills to customers for no  
24      legitimate medical purpose, even after at least  
25      eight customers died from overdose deaths,

Page 268

1 according to law enforcement officials. Do you  
2 see where I was reading from in the first  
3 paragraph?

4 A. Yes.

5 Q. And based only on public sources  
6 and not from anything learned in your capacity  
7 as a task force officer, is that consistent  
8 with your understanding with Dr. Harper's  
9 activities that led to that ten-year sentence?

10 MR. BENNETT: For the record, we  
11 had a discussion about this, and I want Det.  
12 Leonard to know that we agree that he is able  
13 under his authorization to confirm the facts  
14 are in the press release.

15 So, Det. Leonard, if that's your  
16 understanding of the case, you are able to  
17 confirm the facts that he is asking that's in  
18 the press release.

19 A. Yes, that's what I understand.  
20 Correct.

21 Q. And several other, just discreet  
22 points about this press release. In the third  
23 to the last paragraph from the bottom of page  
24 1, it refers to Dr. Harper's customers that  
25 came to his office and received prescriptions

1       for addictive prescription medicines without  
2       being examined by Harper and often without  
3       seeing him at all, according to court  
4       documents.

5                   Again, based only on public  
6       sources, can you confirm that that is a  
7       correct -- are you aware that that's a correct  
8       description of the case against Dr. Harper?

9           A.     It is one of the aspects of the  
10      case, yes.

11           Q.     I'm not going to mark this as an  
12      exhibit, but you referred earlier today in your  
13      testimony to Det. John Prince?

14           A.     Correct.

15           Q.     And he's also a task force officer  
16      along with yourself?

17           A.     Yes, sir.

18           Q.     And you understand him to be a  
19      Cleveland diversion detective?

20           A.     Yes, sir.

21           Q.     I'm going to read -- actually, let  
22      me ask you a general question. Are you  
23      familiar with a Pharmacy Alert System?

24           A.     Yes.

25           Q.     What is that system?

1           A.     It is different in different areas.  
2     In our area, one of the pharmacists kind of  
3     took charge of it and they would disseminate  
4     information. If I wanted to put out a hotline,  
5     I would send them an email with the doctor's  
6     name that was being abused. Whatever was going  
7     on, I would send him an email, they would  
8     disseminate one to a local CVS, one to a Rite  
9     Aid, one to a Marc's, and then Marc's or CVS  
10    would all disseminate to their own agencies.  
11    That way we would get the information out.

12               It fell apart because of the fax  
13    system, and when everybody started getting  
14    emails, it didn't seem to work so well, because  
15    if I sent it to one pharmacist and they are off  
16    for three days and don't open their emails,  
17    nobody else gets it. When the faxes went away,  
18    the alert system went away.

19           Q.     And in an annual report that Det.  
20    Prince authored in 17, he refers to an expanded  
21    use of the Pharmacy Alert System. I know that  
22    you didn't author Det. Prince's report, but do  
23    you have any understanding of what he may refer  
24    to as expanded use of the Pharmacy Alert  
25    System?

1           A.     I'm not sure what he would be  
2 referring to.

3           Q.     You mentioned that there was a  
4 particular pharmacist that took charge of that  
5 early in the process. Who was that?

6           A.     Ritzman's.

7           Q.     Ritzman's, okay. At least as it  
8 may have operated according to your  
9 understanding, I want to ask you if this is  
10 consistent with how you understand the system  
11 worked when you were familiar with it.

12                 It says, "The alert system  
13 continues to aid in the successful  
14 identification and prosecution of prescription  
15 drug offenders." Do you think that  
16 characterization from Det. Prince is a fair  
17 one?

18                 A.     Yes.

19                 Q.     He continued that, "It has led to a  
20 strong partnership with many of our local  
21 pharmacists who are at the front lines of  
22 prescription drug diversion and often feel like  
23 they were being victimized." Do you agree with  
24 that characterization from Det. Prince?

25                 A.     Yes.

1           Q.     And the last sentence in his report  
2     on this topic says, "Without their assistance,"  
3     referring to pharmacists, "pharmaceutical drug  
4     diversion enforcement would be next to  
5     impossible." Do you agree with that  
6     characterization?

7           MR. LEDLIE: Object to the form of  
8     the question.

9           A.     I do agree.

10          Q.     In respect to your work prior to  
11     becoming a task force officer, so prior to  
12     February of 2012, if you conducted an  
13     investigation involving forged prescriptions,  
14     did you typically get those cases through a  
15     report from a pharmacist?

16          A.     Yes.

17          Q.     I think you said earlier today that  
18     you regard investigations of physicians as  
19     indepth and time consuming?

20          A.     Yes, sir.

21          Q.     They are among one of the more  
22     indepth, time consuming investigations of  
23     diversion that you are involved in?

24          A.     Yes, sir.

25          Q.     Have you ever seen a doctor

Page 273

1 diversion case prosecuted without the  
2 involvement of a medical expert?

3 MR. LEDLIE: Object to the form of  
4 the question.

5 MR. BENNETT: And I object to the  
6 extent that it calls for you to talk about  
7 cases that were not convictions, that were  
8 federal investigations. You are only  
9 authorized to talk about the specific public  
10 knowledge of prosecuted and convicted cases.

11 MR. MOYLAN: If we are talking  
12 about publicly filed cases presented in court,  
13 I would suggest we shouldn't limit that  
14 instruction only to convictions.

15 Q. So my question would be with  
16 respect to any publicly charged case against a  
17 doctor, are you familiar with any such case  
18 that did not involve the use of a medical  
19 expert?

20 A. Yes.

21 Q. You are?

22 A. Yes.

23 Q. Can you remember the particulars  
24 about that case?

25 A. Dr. Gregory Ingram.

Page 274

1           Q.     And how was his case prosecuted  
2 without the use of a medical expert?

3           MR. BENNETT: Objection. To the  
4 extent that it calls for you to disclose the  
5 internal deliberative process of either the  
6 U.S. Attorney's Office or the DEA, you are not  
7 authorized to answer that question. And if you  
8 can answer it without, based on publicly  
9 available information, then you may answer.

10          Q.     And I'm really only interested in  
11 publicly available information about how the  
12 case was prosecuted, if you know.

13          A.     I'm trying to draw, you know, the  
14 red folder/green folder separation in my head.  
15 It was an Akron case that went federal.

16          Can I have second to confer with  
17 the DEA counsel?

18          MR. BENNETT: Is that okay,  
19 counsel, for privilege purposes?

20          A.     I don't want to put my foot in my  
21 mouth.

22          Q.     I want to see if I can short  
23 circuit it, because what I'm interested in is  
24 the presentation of public evidence. So I'm  
25 not really interested in deliberative process

Page 275

1 at all.

2 But to the extent you are aware of  
3 how the case was actually presented, my  
4 interest is what was it about Dr. Ingram's case  
5 that -- first of all, did it lead to a  
6 conviction, can I ask that?

7 A. Yes.

8 Q. It did. And in terms of the public  
9 presentation of evidence, what were the nature  
10 of the charges and the evidence against him?

11 A. He pled guilty to 48 counts of  
12 trafficking.

13 Q. Without getting into any  
14 deliberative materials regarding the TDS work  
15 that you did, was the evidence of his  
16 trafficking so overwhelming that that was an  
17 unusual case that didn't involve a medical  
18 expert?

19 MR. BENNETT: Objection. To the  
20 extent that that calls for you to discuss the  
21 internal deliberative process or the substance  
22 of your particular investigation that's not  
23 public, you are not authorized to answer that  
24 question.

25 To the extent that you can discuss

Page 276

1       the publicly available information in answering  
2       that question, then you may answer.

3           A.     All my information on that is case  
4       oriented.

5           Q.     Is it fair to say that that's the  
6       only case involving a diversion investigation  
7       of a doctor that was prosecuted that did not  
8       involve the use of a medical expert?

9           A.     Yes, that I'm aware of.

10          Q.     Why it more difficult to  
11       investigate doctors for diversion than some  
12       other defendants?

13           MR. BENNETT: Objection. Beyond  
14       the scope of your authorization, to the extent  
15       that that calls for you to disclose  
16       investigative techniques or the internal  
17       deliberative process of the DEA. To the extent  
18       that you can give a 3,000 feet general answer,  
19       then you may answer.

20          A.     Basically, because I don't have a  
21       medical degree, and you only know what you know  
22       and you don't know what you don't know. So a  
23       medical expert is required.

24          Q.     Implicit in your answer is that  
25       evaluating prescribing decisions by doctors

1 involves medical expertise; doesn't it?

2 A. Yes, it does.

3 Q. Does it also involve having an  
4 understanding of the patient clinical  
5 information in order to evaluate doctor  
6 prescribing practices?

7 MR. BENNETT: Objection. Same  
8 instruction.

9 A. I guess from my personal knowledge  
10 as a patient, as an individual that, yes, I  
11 think that that information is necessary.

12 Q. Okay. And is that clinical  
13 information concerning an individual patient  
14 information that is available to the public?

15 A. No, not formally.

16 Q. Is it protected by federal privacy  
17 laws?

18 A. By HIPAA, yes.

19 Q. And are you aware whether any  
20 pharmaceutical distributor has access to  
21 patient clinical information?

22 A. I'm not aware.

23 Q. Do you have any reason to believe  
24 that they are in possession of that kind of  
25 information?

1           A.     I guess from the 3,000 foot level,  
2 I would assume if they are paying for -- not  
3 assuming, but all the payments and diagnosis  
4 codes are read and understood by somebody at  
5 some level or they wouldn't continue to be  
6 processed. So I would assume they have some  
7 type of knowledge. How much, I don't know.

8           Q.     So you don't know, but your  
9 assumption is that there is some patient  
10 specific information that is available to the  
11 drug distributors?

12          A.     That's my personal opinion. I  
13 don't know professionally, no.

14          Q.     You don't know that. Okay. I'm  
15 just going to have a few questions about  
16 defendants in this case.

17               Have you ever heard of a company  
18 called CVS Indiana LLC, that particular entity?

19               MR. BENNETT: Objection. Beyond  
20 the scope of your authorization, to the extent  
21 that that deals with a specific investigation  
22 you undertook as a task force officer;  
23 otherwise, you can answer the question.

24          A.     Then I don't -- I'm not allowed to  
25 answer.

1           Q.     And I'll limit my questions from  
2 here on to work that is not within your task  
3 force work, and I'll also limit it to  
4 information that doesn't pertain to any  
5 nonpublic DEA-related information. So with  
6 those limitations, I'm going to ask some more  
7 questions.

8                 Have you ever heard of a company,  
9 subject to those limitations called, CVS Rx  
10 Services, Inc.?

11          A.     It doesn't ring a bell, so I don't  
12 know.

13          Q.     Subject to the same limitations, is  
14 it fair to say you don't have any understanding  
15 of what their business is, those two entities  
16 that I mentioned?

17          A.     Yes, sir, that's correct.

18          Q.     So you were not aware that they are  
19 defendants in this case?

20          A.     I know CVS is a defendant. I don't  
21 know, whatever said Rx, Inc., if that's who CVS  
22 is, I don't know the title or the name you are  
23 giving them.

24          Q.     Okay. Do you have any  
25 understanding, apart from your task force work,

1       of why those two CVS entities are named as  
2       defendants in this case?

3           A.     I guess I'm not sure of your  
4       question.

5           Q.     Do you have any understanding of  
6       what the claims or allegations are against  
7       those particular CVS entities?

8           A.     I read the indictment, but I don't  
9       know what specifically for those two -- no, I  
10      don't. I didn't memorize the indictment.

11          Q.     I think for all of us defense  
12       counsel, you are referring to a civil complaint  
13       as opposed to a criminal.

14          A.     The complaint, yes.

15          Q.     So with respect to any other  
16       national pharmacy chains, are you aware -- let  
17       me take them one by one.

18               Are you aware that Rite Aid is a  
19       defendant in this case?

20          A.     Yes, I am.

21          Q.     Are you aware that Walgreens is a  
22       defendant?

23          A.     I am.

24          Q.     And are you aware that Walmart is a  
25       defendant?

1           A.       Yes, I am.

2           Q.       Can you describe what you remember  
3       about the claims against any of those retail  
4       pharmacy chains?

5           A.       No, I cannot.

6           Q.       So you are unaware -- or correct me  
7       if I'm wrong, are you aware that any of those  
8       pharmacy chains was not sued in its role as a  
9       retail pharmacy?

10          A.       I'm aware of it. I just don't know  
11       the specifics.

12          Q.       So you understand that they are not  
13       being sued as dispensing medicines to any  
14       customer?

15          A.       Yes.

16          Q.       You do understand that. Okay.

17                 And do you know that no pharmacists  
18       are defendants in this lawsuit?

19          A.       Yes, I understand that.

20          Q.       Apart from your work involving the  
21       TDS, do you have any personal knowledge other  
22       than that, other than from that work, of  
23       systems used by drug distributors to detect or  
24       prevent diversion?

25          A.       I do not.

1           Q.     Do you believe that any of your  
2        colleagues in the Akron Police Department are  
3        aware or have knowledge of the systems used by  
4        drug distributors to detect or prevent  
5        diversion?

6           MR. LEDLIE: Object to the form of  
7        the question. Calls for speculation.

8           A.     I do not believe anyone at the  
9        police department has -- there may be one or  
10       two individuals that has access to OARRS, but  
11       other than that, no one has any other access  
12       that I'm aware of.

13          Q.     Not referring to any work that you  
14        have been involved with as part of the TDS, in  
15        your general 30,000 foot understanding as an  
16        experienced detective, do you believe that you  
17        or your fellow detectives in the police could  
18        tell if a doctor overprescribed opioids, simply  
19        based on the quantity or duration of a  
20        prescription?

21          MR. LEDLIE: Object to the extent  
22        this is a hypothetical, and this is a fact  
23        witness. Improper question. Beyond the scope.

24          A.     I don't know that anyone could  
25        determine that. I don't know that we have any

1       physicians that work for the police department  
2       without a further indepth investigation before  
3       they could determine that.

4           Q.     Okay. So you would need further  
5       investigation to make an assessment about  
6       whether a doctor had overprescribed if all you  
7       knew was the quantity and the duration of the  
8       prescription?

9           A.     Yes, that's correct.

10          Q.     And so again, except for any  
11       TDS-related work, have you ever sought a search  
12       warrant for a doctor solely based the amount or  
13       duration of a prescription?

14          A.     No.

15          Q.     And do you believe a doctor, other  
16       than TDS-related work, do you believe that a  
17       doctor -- have you ever seen doctor prosecuted  
18       solely based on the quantity or duration of a  
19       prescription?

20          A.     No.

21          Q.     Have you ever seen a doctor  
22       disciplined by the Ohio Board of Medicine on  
23       that sole basis?

24          A.     No. I don't have any access to  
25       what the medical board does, so I don't -- I

1       wouldn't know if they did or didn't.

2           Q.        You wouldn't know. All right.

3                   Would you agree, based on your  
4       experience, other than your TDS work, with the  
5       view that doctor prescribing practices are  
6       central in how much medicine is prescribed for  
7       people in the Akron area?

8                   MR. LEDLIE: Object to form of the  
9       question. Beyond the scope. Expert testimony.

10          A.        Can you rephrase it? I'm not  
11       sure -- restate it.

12          Q.        Sure. Other than TDS-related work,  
13       do you believe that doctor prescribing  
14       practices are central to how much prescription  
15       medicine is distributed into the Akron area?

16          A.        Definitely one of the key  
17       ingredients.

18          Q.        Okay. And is it fair to say that  
19       if a doctor does not write a prescription for  
20       opioids, then a pharmacist cannot dispense  
21       opioids lawfully; is that correct?

22          A.        Yes, sir.

23          Q.        And a patient cannot lawfully  
24       obtain opioids without a prescription from a  
25       licensed doctor, correct?

1           A.     Legally, yes, correct.

2           Q.     Just a few questions from a 30,000  
3     foot view, and not at all interested in trade  
4     craft for the police department, and again  
5     excepting anything that you have done with the  
6     TDS, in a doctor investigation, do you  
7     generally try to interview patients of that  
8     doctor?

9           A.     I do.

10          Q.     And again, without getting into any  
11     particulars, nothing to do with TDS, is it  
12     common to try to do -- to try to go into the  
13     doctor's office, either an investigator or an  
14     informant, to pose as a patient?

15          A.     I'm not sure if we are getting into  
16     techniques, how we do our job of sending  
17     sources in or not.

18                MR. LEDLIE: I think at a very,  
19     very high level for your time with Akron, we  
20     would be okay with that, a very high level.

21          A.     Yes, it is something we would try  
22     to do.

23          Q.     Okay. And in those situations,  
24     what are some of the things you look for?

25                MR. LEDLIE: Now I think you are

1       not at 30,000 feet, and I would instruct you  
2       not to go into any tools or techniques of your  
3       investigation that you believe would reveal  
4       nonpublic information.

5           A.     So give me the question again.

6           Q.     So if there is any undercover work  
7       to make contact with a doctor, what sort of  
8       things do you look for to try to evaluate if  
9       the doctor is acting appropriately or not?

10          A.     I think all those things are going  
11       to be -- fall under the tools of the trade and  
12       things I'm going to do.

13               The only thing I would tell you is  
14       investigations sources and techniques I would  
15       use to further prosecute someone.

16          Q.     Okay. I'll move on.

17               Is physical surveillance around a  
18       doctor's office something that is commonly  
19       done, and apart from TDS work?

20          A.     Yes.

21          Q.     I think you had conducted something  
22       like four doctor investigations in all your  
23       time as an Akron police detective prior to  
24       joining the TDS; is that correct?

25               MR. LEDLIE: I would instruct the

1       witness not to answer as to any uncharged or  
2       any investigations that are not resulting in  
3       criminal charges, under the police  
4       investigation process, police investigation  
5       rule. He can talk about public cases.

6           Q.     Let's start with public cases, but  
7       to the extent we are not getting into any named  
8       individuals, which I don't intend to, I just  
9       wanted to know what the volume of cases was.

10           So let's start with the charged  
11       cases. Doctor charged cases while working as  
12       an Akron police detective, how many can you  
13       remember?

14           A.     There was Harper, Ingram.

15           Q.     Same ones you mentioned earlier?

16           A.     Yes, so....

17           Q.     So I wasn't clear. Those were also  
18       some task force cases?

19           A.     Harper started as Akron and ended  
20       up task force. Ingram I was on the task force  
21       when the case -- when I initiated the case.

22           There were a couple of cases that I  
23       don't know how they turned out, because they  
24       were turned over to different agencies, so I  
25       can't speak on whether they were convicted or

1       not, so I really can't talk about those cases.

2           Q.       Let me try --

3           MR. BENNETT: If he is able to  
4       answer your question without regarding TDS  
5       cases, because you asked for convicted case, so  
6       that's within the scope of his authorization.

7           Q.       I think we may have all the ones  
8       that you remember by name, and I want to get an  
9       overall number and see if I can verify that  
10      prior to TDS you have done a total of four  
11      investigations of physicians in the 14 years  
12      you worked in diversion. Without naming any  
13      particular doctors, does that sound like a  
14      correct number?

15          A.       It was probably closer to six,  
16       because there were a couple that weren't  
17       disclosed because they --

18           MR. LEDLIE: Don't tell him the  
19       reason.

20          A.       They weren't charged.

21          Q.       Four to six, something around that  
22       number. Okay.

23           In the doctor prescribing --  
24       overprescribing cases or diversion cases that  
25       you have been involved in, is an OARRS lookup

1       done in everyone of those cases, to the extent  
2       the OARRS system was available to you?

3           A.       In the doctors?

4           Q.       Doctor prescribing cases.

5           MR. BENNETT: And you're talking  
6       non-TDS cases, correct?

7           MR. MOYLAN: Yes, that's what I'm  
8       asking.

9           A.       I believe so. Yes, I believe an  
10       OARRS was used when available. I believe that  
11       OARRS was used, yes.

12           MR. MOYLAN: And you object to that  
13       question with respect to TDS?

14           MR. BENNETT: Correct. He is not  
15       authorized to discuss the law enforcement  
16       investigative techniques he used investigating  
17       cases for the tactical diversion squad of DEA.  
18       That would include databases that he accesses  
19       and uses, which would include OARRS. So he's  
20       not authorized to answer that.

21           Q.       Is it fair to say that the goal in  
22       a doctor diversion case is to determine if the  
23       doctor is prescribing medicine outside the  
24       range of acceptable medical judgment?

25           A.       Yes. Outside of the scope of

1           medical necessity and judgment, yes.

2           Q.       And you think it is fair to say  
3           that investigating a doctor is significantly  
4           more complicated than investigating other  
5           sources of diversion?

6           MR. LEDLIE: Object to the form of  
7           the question.

8           A.       Yes.

9           MR. MOYLAN: I think that's all I  
10          have.

11          MR. LEDLIE: Let's take a break.  
12          (Recess taken.)

13          MR. GOLDSTEIN: Back on.

14           EXAMINATION OF PATRICK LEONARD  
15          BY MR. GOLDSTEIN:

16          Q.       Good afternoon, detective.

17          A.       Good afternoon.

18          Q.       A few questions for you. Probably  
19          more than a few, to be fair.

20           You are familiar that some of the  
21          defendants in this case are manufacturers; is  
22          that right?

23          A.       Yes, I am.

24          Q.       Are you aware of the allegations  
25          against the manufacturers in this case?

1           A.       Yes. I have read through the  
2 complaint.

3           Q.       And what is your general  
4 understanding of those allegations?

5           A.       They flooded markets and put drugs  
6 in the area that gave physicians the  
7 opportunity to prescribe more drugs and more  
8 people became addicted.

9           Q.       Do you have an understanding of  
10 whether you provided any information to the  
11 plaintiffs that was then put into the complaint  
12 with respect to the manufacturers in this case?

13          A.       No, I never spoke with the  
14 plaintiffs prior to seeing the complaint.

15          Q.       Understood. And I believe earlier  
16 you reviewed some what's called interrogatory  
17 responses?

18          A.       Yes.

19          Q.       Do you have an understanding  
20 whether you provided any information that was  
21 used in any interrogatory response by the  
22 plaintiffs?

23          A.       I don't know what was used, so I  
24 don't know. I provided a lot of information,  
25 the city provided a lot of information.

1                   MR. LEDLIE: The content of your  
2 conversation with counsel is privileged, and I  
3 would ask you not to reveal the content of any  
4 communications.

5                   Q. Let me ask it this way: Are you  
6 aware of any specific allegations against  
7 manufacturers related to marketing activities  
8 in this case?

9                   A. No, I don't believe so.

10                  Q. Okay.

11                   - - - - -  
12                  (Thereupon, Deposition Exhibit 23,  
13 Designated Confidential, 1-16-2013  
14 Email, Bates Labeled  
15 AKRON\_000368456, was marked for  
16 purposes of identification.)

17                   - - - - -  
18                  Q. Handing you, detective, what has  
19 been marked as Exhibit 23.

20                  MR. BENNETT: Counsel, is this  
21 January 16, 2013 an email that you gave us a  
22 copy of already?

23                  MR. GOLDSTEIN: Correct.

24                  MR. BENNETT: Okay. Thank you.

25                  Q. Have you seen this email before

1 today?

2 A. Yes, I have.

3 Q. What is it?

4 A. It is an email from Agent Tom  
5 Miksch from the board of pharmacy to me,  
6 reference Dr. Harper case.

7 Q. I'm handing you also what has been  
8 marked as Exhibit 24.

9 - - - - -  
10 (Thereupon, Deposition Exhibit 24,  
11 Designated Confidential, Protected  
12 Health Information, Patient Deaths  
13 Associated with Dr. Harper,  
14 Beginning with Bates Labeled AKRON  
15 000368457, was marked for purposes  
16 of identification.)

17 - - - - -

18 Q. And do you recognize Exhibit 24?

19 A. I do.

20 Q. What is that?

21 A. It is a list of patients that are  
22 from the coroner's office, patients we  
23 associate with death due to Dr. Harper.

24 Q. Do you recall receiving these  
25 documents during the course of your work on the

1 TDS?

2 A. Yeah. I guess it was during TDS,  
3 yes.

4 Q. And did you do anything based on  
5 the information contained in these documents in  
6 the course of your work for TDS?

7 MR. BENNETT: Objection. Beyond  
8 the scope of his authorization. He's not  
9 authorized to disclose the activities he  
10 performed as a result of this. So he's not  
11 authorized to answer that question.

12 Q. If you look at Exhibit 24, Exhibit  
13 24 is an attachment to the email from Exhibit  
14 23; is that right?

15 A. Yes, sir, that's correct.

16 Q. And if you look at -- do you  
17 recognize the general format of this document?

18 A. Yes, sir.

19 Q. And what is it?

20 A. It was a spreadsheet set up by  
21 Agent Miksch with information on the  
22 individuals that overdosed.

23 Q. If you look towards the middle of  
24 the -- strike that.

25 To clarify, these are all

1 individuals who overdosed during what period of  
2 time?

3 A. It looks like 2009 through 2012.

4 Q. And based on the information in the  
5 cover email, I take it these are all patients  
6 of Dr. Harper who had overdosed; is that right?

7 A. That's correct.

8 Q. And when did your investigation of  
9 Dr. Harper begin?

10 A. I'm not sure of the exact date. I  
11 believe it was somewhere around 2010, plus or  
12 minus, minus probably. 9, 10, somewhere in  
13 that area.

14 Q. Okay. Now, if you look towards the  
15 middle of this spreadsheet, you see the column  
16 labeled cause?

17 A. Yes, sir.

18 Q. Do you have an understanding of  
19 what information is contained in that column?

20 A. I do.

21 Q. What is it?

22 A. The cause of death determined by  
23 the coroner.

24 Q. And if you go one more column over,  
25 it says labs?

1           A.       Yes, sir.

2           Q.       Do you have an understanding of  
3 what that column refers to?

4           A.       That would be what the toxicology  
5 report shows what was in the individual's  
6 system.

7           Q.       And one more over, Rx's, do you  
8 have an understanding of what that refers to?

9           A.       Pharmaceuticals that were involved  
10 in the death of the individual.

11          Q.       Did you ever reach a conclusion  
12 about whether the -- whether Dr. Harper  
13 prescribed any of the prescriptions listed in  
14 that Rx's column?

15           MR. BENNETT: Objection. Scope.  
16 It is beyond the scope of his authorization,  
17 because it would require him to disclose DEA  
18 activities, and as a result he is not  
19 authorized to answer this question.

20          Q.       Turn back to the cause column.

21          A.       Okay.

22          Q.       See if you would just take a second  
23 to review the causes that are listed there.

24          A.       Okay.

25          Q.       Fair to say there are several

1 different causes listed in that column?

2 A. Yes, sir.

3 Q. And one of those causes is  
4 complications of heroin use, I'm looking, 1, 2,  
5 3, 4, that's the fifth cause listed?

6 A. Yes.

7 Q. The next cause listed is cocaine  
8 and opiate toxicity; do you see that?

9 A. Yes.

10 Q. And what does that refer to?

11 A. I would assume that's what the  
12 coroner put as cause of death, cocaine and  
13 opiate toxicity.

14 Q. Now, having reviewed the entire  
15 column, is this asking, at a high level, is  
16 this range of causes of death consistent with  
17 your experience investigating these types of  
18 cases?

19 A. This is the only doctor case that I  
20 investigated that had multiple deaths. So that  
21 would sum up my experience and information on  
22 that level.

23 Q. What about your -- as far as your  
24 general understanding of the causes of  
25 opioid-related overdoses in the Cleveland and

1 Akron area, is this listing of several  
2 different causes, including heroin overdoses  
3 and cocaine/opiate toxicity overdoses,  
4 consistent with that experience and  
5 understanding?

6 MR. LEDLIE: Object to the form of  
7 the question. You can answer.

8 A. Along with the combined drug  
9 effects, yes.

10 Q. What do you mean by, "combined drug  
11 effects"?

12 A. Well, that same column, combined  
13 drug effects is listed at least four or five  
14 times, along with combined drug toxicity.

15 Q. And what do you have an  
16 understanding of that to mean?

17 A. It is not one particular opiate  
18 that someone overdosed on. There is multiple  
19 players on board.

20 MR. LEDLIE: And the record will  
21 reflect the results are listed in this column  
22 as acute hydromorphone toxicity. There is a  
23 number. The record speaks for itself, but  
24 there are other columns listed here that have  
25 not been identified on the record.

1                   MR. GOLDSTEIN: I certainly agree  
2 the record speaks for itself.

3                   Q.     Do you have an understanding of  
4 where cause is listed as combined drug effects,  
5 and there are several different drugs, do you  
6 have an understanding of whether that is  
7 consistent with the patient taking a legitimate  
8 medical prescription for any of those drugs?

9                   A.     Yes.

10                  Q.     What is your understanding?

11                  A.     That they have taken too many.  
12 This is an overdose. This is the combination  
13 of multiple drugs. I'm not sure I'm answering  
14 your question.

15                  Q.     Do you form an opinion on whether  
16 or not someone who has overdosed, where the  
17 cause is a combination of multiple drug  
18 effects, whether the overdose was caused by  
19 consumption from legitimate prescription  
20 opioids?

21                  MR. BENNETT: Objection to the  
22 scope. You are not authorized to give your  
23 personal opinion regarding nonpublic facts or  
24 information you acquired as a task force  
25 officer. To the extent you can offer an

Page 300

1       opinion without disclosing or using nonpublic  
2       facts or information, you may answer the  
3       question.

4                   MR. LEDLIE: I have an additional  
5       objection, and that is that he is a TDS. He's  
6       not one of the opiate death investigators. So  
7       this entire scope is beyond his factual  
8       knowledge and it is improper.

9                   A. So back to your question.

10                  Q. I'll just move on.

11                  A. Okay. Sorry.

12                  Q. If you turn back in your stack to  
13       Exhibit 22. Continuing on the discussion of  
14       your investigation of Dr. Harper, and if you  
15       look at the fifth paragraph down.

16                  A. Okay.

17                  Q. You see where it says, "Harper may  
18       have been a doctor, but he sold drugs like a  
19       common street level dealer"; do you see that?

20                  A. Yes.

21                  Q. Do you agree with that statement?

22                  A. Yes.

23                  Q. Is it a fair characterization, Dr.  
24       Harper as a drug dealer?

25                  A. Yes.

Page 301

1 Q. Why is that?

2 MR. BENNETT: Objection. Beyond  
3 the scope of his authorization, to the extent  
4 that he would have to disclose the specifics of  
5 his investigation that have not been made  
6 public. He can confirm the facts stated in  
7 this to be consistent with his investigation,  
8 but he is not allowed to provide additional  
9 information. Beyond the scope of his  
10 authorization.

11 Q. Well, I'm asking it this way:  
12 Based on the conduct that Dr. Harper engaged in  
13 that you already testified about today, does  
14 that inform your testimony about why you would  
15 consider him to be a drug dealer?

16 A. I guess I'm not sure what you are  
17 asking.

18 Q. Dr. Harper was giving out  
19 prescriptions without a legitimate medical  
20 purpose. Is that a reason you would  
21 characterize him as a drug dealer?

22 A. Yes.

23 Q. And fair to apply that same  
24 standard to any doctor who was giving out  
25 prescriptions without a legitimate medical

Page 302

1 purpose, that you would describe them as a drug  
2 dealer?

3 MR. LEDLIE: Object to the form.  
4 Objection.

5 A. Yes.

6 Q. The tactical diversion squad was  
7 created in February of 2012, you testified to  
8 that earlier?

9 A. The Cleveland office TDS started in  
10 February of 2012, that's correct.

11 Q. Thank you for the clarification.

12 Do you have an understanding as to  
13 why the TDS was created in 2012?

14 A. I assume why. I don't have -- no  
15 one has told me exactly why, but from working  
16 in the field and understanding the dynamics of  
17 what was going on in Northern Ohio, I expect  
18 that was why it was created.

19 Q. What was that?

20 A. Because of the abuse of opiates  
21 that we began investigating right away.

22 Q. Is it fair to say that when you  
23 were -- your focus before you joined the TDS  
24 was investigating doctor shoppers?

25 MR. LEDLIE: Object to the form of

1           the question. Misstates testimony.

2           A.       It was one of my investigations.

3       Yes, it was one of the forms of the  
4       investigation.

5           Q.       Fair to say before you joined TDS,  
6       you were primarily investigating drug users as  
7       opposed to drug dealers?

8           A.       No. As I stated earlier, somewhere  
9       between four and six physicians have been  
10      investigated by myself and other joint units  
11      prior to joining the DEA task force in 2012.  
12      They didn't all come to indictment and  
13      conviction, but there were other investigations  
14      that did take place.

15          Q.       From your time in working diversion  
16      cases, which I believe started in 1998; is that  
17      right?

18          A.       Yes.

19          Q.       All the way up until you joined  
20      TDS, would you say the majority of your cases  
21      were focused on investigating drug users as  
22      opposed to drug dealers?

23          A.       Pure case numbers, yes.

24          Q.       And when you joined TDS, is it fair  
25      to say that the majority of your cases were

Page 304

1 focused on investigating drug dealers as  
2 opposed to drug users?

3 MR. BENNETT: Objection. To the  
4 extent that it calls for specific  
5 investigations, you are not authorized to  
6 answer. To the extent you can answer regarding  
7 your general duties as a task force officer,  
8 you are authorized to answer regarding your  
9 general duties and the general categories of  
10 cases.

11 MR. LEDLIE: And I'll object to the  
12 form of the question.

13 A. So general duties have a bigger  
14 picture rather than just individual drug  
15 abuses. I don't know if that answers your  
16 question or not.

17 Q. I think as a general matter, was  
18 the TDS primarily investigating drug dealers or  
19 drug users, without reference to any specific  
20 cases?

21 MR. BENNETT: Objection. You may  
22 answer regarding your general duties and not  
23 the specifics of the task force.

24 MR. LEDLIE: I'll object to the  
25 characterization of drug dealers. It is vague,

1 and I'm not sure what you are asking.

2 A. My general duties as a member of  
3 the Cleveland TDS encompass all of those.

4 Primarily, on a larger section, the safety of  
5 citizens, and we would gear towards more  
6 physician oriented, or larger cases, than  
7 doctor shoppers.

8 Q. So I'm not asking about your  
9 specific duties, but your investigations as a  
10 general matter. Were the majority of your  
11 investigations investigations of drug dealers  
12 or drug users?

13 MR. LEDLIE: Object to the form of  
14 the question. Vague, once again, as to drug  
15 dealers. I'm not sure what you are asking  
16 about in terms of narcotics. Illicit  
17 narcotics, are you talking about doctors, are  
18 you talking about physicians assistants?  
19 That's a vague question.

20 A. I guess that's where I'm confused,  
21 because we just got done saying that Dr. Harper  
22 was a drug dealer.

23 So a physician investigation, are  
24 you saying that any investigations we do on  
25 physicians are considered drug dealers

1       separate, or are you talking about someone  
2        selling heroin and cocaine and bringing the  
3        cartel in from Mexico?

4           Q.     I'm asking about who the focus of  
5        your investigations were, who were the targets  
6        of your investigations.

7                   So I believe your testimony has  
8        been that the targets were doctor shoppers and  
9        overprescribing physicians and manufacturers of  
10       counterfeit opiates; is that a fair statement?

11          A.     Yes, it is.

12          Q.     And so of those three targets,  
13        which was the largest group that you  
14        investigated?

15          A.     While still working the larger  
16        cases with the Cleveland TDS, I was still  
17        responsible for the doctor shoppers in Akron,  
18        and that kind of all commingled into the same  
19        categories.

20          Q.     You testified earlier that in your  
21        conversations with doctor shoppers, you had  
22        come to learn from them that they had started  
23        with prescription opiates and then moved to  
24        illicit drugs; is that accurate?

25          A.     Yes.

1 Q. Did you -- strike that.

2 Do you have any concerns about the  
3 truthfulness of the statement that doctor  
4 shoppers make to you during the course of your  
5 investigation?

6 MR. BENNETT: Objection. Beyond  
7 the scope of his authorization. To the extent  
8 it relates to federal investigations that he  
9 has done, he is not authorized to offer an  
10 opinion as to the truth and veracity of the  
11 people that come in front of him.

12 And so I would instruct him to the  
13 extent that that relates to task force  
14 operation investigations, you are not  
15 authorized to answer. If you want to ask him  
16 pre-2012.

17 Q. Let's start with pre-2012.

18 MR. LEDLIE: Object to the form of  
19 the question. You can answer to the extent you  
20 are able.

21 A. I believe most of the people I  
22 interviewed, during an interview they are  
23 giving me additional facts that I'm able to  
24 check, and normally when I conduct an  
25 interview, I know the answer to at least 75

1 percent of the questions I'm going to ask them,  
2 and when they are being honest with those  
3 questions, I have no reason to believe that  
4 they lied about what they started with and what  
5 they became addicted to throughout that  
6 process.

7 Q. Do you have an opinion as to  
8 whether there is a different stigma associated  
9 with taking a prescription opioid and then  
10 having it lead to illicit drug abuse, versus  
11 starting with illicit drugs in the first place?

12 MR. LEDLIE: Object to the form of  
13 the question. Compound, vague and assumes  
14 facts not in evidence.

15 A. I do understand there is a  
16 difference in that, yes.

17 Q. And might that be a reason why a  
18 person you are interviewing in the course of  
19 one of your investigations might not be  
20 truthful with you when telling you what the  
21 reason was -- or what the initial drug that  
22 they took was?

23 MR. LEDLIE: Object to the form of  
24 the question. Without revealing any police  
25 investigation techniques that are nonpublic,

1       you may answer that question, but it seems to  
2       explicitly call for investigation techniques.

3           A.     I don't know how to answer that. I  
4       already have affirmative knowledge that they  
5       are taking opioids, prescription medication in  
6       those investigations. So I guess I don't  
7       understand your question as to whether they  
8       started with that or not, when I have OARRS  
9       reports and investigative evidence showing that  
10      they were taking those medications.

11          Q.     When you were having these  
12       conversations with doctor shoppers, is it fair  
13       to say they were targets of investigations at  
14       the time you were talking to them?

15          A.     Yes.

16          Q.     And did they understand that?

17          A.     Oh, yes.

18          Q.     Did they understood that you were a  
19       detective when they were speaking with you?

20          A.     Most of those conversations took  
21       place on the 6th floor of the Akron police  
22       detective bureau, so they were detained and  
23       waiting to be charged that day when they had  
24       those interviews.

25          Q.     Understood. Now, in the course

1       your investigation of overprescribing  
2       physicians, have you ever served in an  
3       undercover capacity?

4                    MR. BENNETT: Objection. To the  
5       extent that this talks about your activities  
6       with the TDS, you are not authorized to answer  
7       that question. It is beyond of the scope of  
8       your authorization.

9                    MR. LEDLIE: And the City of Akron  
10      would join in revealing whether he did or did  
11      not serve in an undercover capacity. That puts  
12      your safety at risk, and I would instruct you  
13      not to answer that question, as to the City of  
14      Akron.

15                  Q.     Have you ever been involved in  
16      secretly recording a physician in the course of  
17      one of your investigations?

18                  MR. BENNETT: Objection. Beyond  
19      the scope of his authorization. To the extent  
20      you are asking about TDS activities, I would  
21      instruct the witness he is not authorized to  
22      answer that question regarding TDS activities.

23                  MR. LEDLIE: As to the City of  
24      Akron, law enforcement privilege as to that  
25      question.

1 Q. Handing you what has been marked as  
2 Exhibit 25.

10 Q. Now, have you seen Exhibit 25  
11 before?

A. I have not.

13 Q. And I'll direct you on the first  
14 page, in the far left column, the Recommended  
15 Rulings, Findings of Fact, Conclusions of Law  
16 and Decision of the Administrative Law Judge;  
17 do you see that?

18 A. I do.

19 Q. And then if you look in that first  
20 paragraph, "The nature of the case,  
21 Administrative Law Judge"; you see that?

22 A. Yes.

23 Q. And so it is referring to the  
24 matter of Syed Akhtar-Zaidi, M.D.; do you see  
25 that?

1 A. I do.

2 Q. Are you familiar with Dr. Zaidi?

3 A. I am.

4 Q. And if you look at the next  
5 paragraph down, at the very top of the middle  
6 column there, this is, "The drug enforcement  
7 administrator, through her deputy  
8 administrator, issued an order to show cause  
9 why the administrator should not revoke DEA  
10 Certificate of Registration number BA3842259  
11 issued to Syed Jawed Akhtar-Zaidi, M.D., and  
12 should not deny any application for renewal or  
13 modification of the same"; do you see that?

14 A. I do.

15 Q. Did you have an understanding of  
16 what this document is?

17 A. I do.

18 Q. What is your understanding?

19 A. It is the federal issue reference  
20 the DEA certificate of Akhtar-Zaidi for his DEA  
21 license.

22 Q. Now, if you turn to maybe the fifth  
23 or sixth page, in the top right the number is  
24 42981.

25 A. 42981?

1           Q.       Yeah. You see in the far left  
2 column, towards the bottom, "Dr. Zaidi's  
3 treatment of Officer Patrick Leonard under the  
4 [REDACTED]

5           A.       I do.

6           Q.       Do you have an understanding of  
7 what -- you want to take a minute -- I can  
8 just -- we can just walk through.

9                     The second paragraph says, "Det.  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13           A.       I do see that.

14           Q.       Is that accurate?

15           A.       It is.

16           Q.       What do you recall about your work  
17 in an undercover capacity investigating Dr.  
18 Zaidi?

19                     MR. BENNETT: Objection. This is  
20 beyond the scope of his authorization. He  
21 is authorized to confirm factual information  
22 contained in this decision, but he's not  
23 authorized to discuss the substance or  
24 activities that are not in this related to his  
25 or DEA's investigation.

1                   So I would instruct the witness  
2                   that this is beyond the scope of his  
3                   authorization, but anything other than to  
4                   confirm the facts that are concerned in this  
5                   administrative law decision.

6                   Q.       It says in the second sentence,  
7                   that you attended six office visits with Dr.  
8                   Zaidi, and in each visit received prescriptions  
9                   for controlled substances; is that accurate?

10                  A.       It is.

11                  [REDACTED]

12                  [REDACTED]

13                  A.       It is.

14                  Q.       Is it accurate that Dr. Zaidi was  
15                  engaged in the misleading -- strike that.

16                  [REDACTED]

17                  [REDACTED]

18                  [REDACTED]

19                  [REDACTED]

20                  [REDACTED]

21                  [REDACTED]

22                  A.       Yes.

23                  MR. BENNETT: Objection. I would  
24                  indicate to the witness that he may confirm his  
25                  testimony, but he may not add facts beyond what

1 is contained in the administrative law  
2 decision.

3 So if it is not within the  
4 administrative law decision, as far as what he  
5 mislead Dr. Zaidi about, he may not confirm  
6 that.

7 Q. Let me direct you to the next  
8 paragraph down. It says, "In his role as

9 [REDACTED]  
10 correct?

11 A. Yes.

12 Q. "Det. Leonard reported that he had  
13 stiffness in his lower back. In his initial  
14 interview with Christy Barrett, Det. Leonard  
15 reported pain levels of between three and four  
16 on a ten point scale"; is that accurate?

17                   A.        No.     It was between two and three,  
18     but that's --

19 Q. Fair enough. And do you recall who  
20 Christy Barrett was?

21                   A.       She was an employee there. I  
22        couldn't pick her out of a lineup today.

23 Q. And if you could take a minute to  
24 review the remainder of that paragraph.

25 MR. LEDLIE: The paragraph in his

1

2 MR. GOLDSTEIN: Yes. Thank you.

3 A. Okay.

4 Q. Is everything contained in that  
5 paragraph accurate, to the best of your  
6 knowledge?

7 A. Yes, sir, I believe it is.

8 Q. You can put that aside.

9 Did the undercover work described  
10 in -- is the type of undercover work that we  
11 just discussed consistent with the undercover  
12 work -- strike that. Let me ask you a  
13 different question that will have the same  
14 result.

15 In that interest, I'll just move  
16 on.

17 You testified previously that there  
18 are some instances in which you have reached  
19 out to the board of pharmacy regarding revoking  
20 a prescriber's license; do you recall that  
21 testimony?

22 A. No. I said I would work with the  
23 board of pharmacy. I never called them and  
24 asked them to revoke a pharmacist's license.

25 Q. Do you recall in which cases that

1       you have worked on that a pharmacist's license  
2       has been revoked by the board of pharmacy?

3           A.       No, not offhand.

4           Q.       Do you recall roughly how many  
5       times that's happened?

6           A.       A handful. Maybe three to five.

7           Q.       In the course of any investigation  
8       of a prescriber prior to joining TDS, did you  
9       ever come across any marketing materials that  
10      were provided by the manufacturer of opioids?

11          A.       No. The only thing, in our first  
12       session in January, was that conference that I  
13       went to where someone from one of the  
14       pharmaceutical companies spoke, and that was  
15       the only time.

16          Q.       Did you ever encounter any  
17       materials that were provided to physicians in  
18       particular by a manufacturer of opioids?

19          A.       No, I don't recall acquiring any,  
20       no.

21          Q.       Prescription opioids, to be clear.

22          A.       Yes.

23          Q.       Since joining the TDS, have you  
24       encountered any marketing materials provided by  
25       a manufacturer of the prescription opioids?

1                   MR. BENNETT: Objection. To the  
2 extent that calls for information related to  
3 your investigation, you are not authorized to  
4 answer. To the extent that you obtained  
5 information from a public source unrelated to  
6 your information or aware of information, you  
7 may answer.

8                   A. I'm not going to be allowed to  
9 answer.

10                  Q. Handing you what has been marked as  
11 Exhibit 26.

12   - - - - -

13   (Thereupon, Deposition Exhibit 26,  
14 Indictment for Dr. Harper, was  
15 marked for purposes of  
16 identification.)

17   - - - - -

18                  Q. Do you recognize this document?

19                  A. I do.

20                  Q. What is it?

21                  A. This is a the indictment for Dr.  
22 Harper and his office, his associates.

23                  Q. I believe we talked through a lot  
24 of the information in here already, so I'm just  
25 going to ask you a couple questions.

1           If I could direct you to page 11 of  
2 the document. Do you see in paragraph 35 (a),  
3 it says, "On or about the dates listed below,  
4 from his office in Akron, Ohio, Adolph Harper,  
5 Jr. issued, quote, prescriptions for the  
6 following controlled substances on the  
7 following day to JC, a Harper DTO customer not  
8 charged herein"; do you see that?

9           A.     I do.

10          Q.     And then there is a table  
11 underneath the indictment -- underneath that  
12 paragraph. Do you see the table?

13          A.     I do.

14          Q.     And do you have an understanding of  
15 what information is contained in that table?

16          A.     Yes, I do.

17          Q.     And what is that understanding?

18          A.     It is the individual's prescription  
19 records, dates written, filled, what the  
20 prescriptions were, the strength and the  
21 quantity.

22          Q.     And is it fair to say that  
23 according to the indictment, these were  
24 prescriptions that were written that did not  
25 have a legitimate medical purpose?

Page 320

1           A.       Yes, sir, it is.

2           Q.       If you turn to the next page,  
3 paragraph (b), there is another list of  
4 prescriptions, this time written to customer  
5 KC; do you see that?

6           A.       I do.

7           Q.       Fair to say that these are also  
8 prescriptions that were not legitimate,  
9 according to the indictment?

10          A.       Yes, that's correct.

11          Q.       The same for paragraph (c)?

12          A.       Yes.

13          Q.       If you turn to the next page, why  
14 don't you just look through the tables. If you  
15 just flip through, there is tables, there is  
16 similar tables on the following five pages,  
17 pages 13 through 18. They all appear to be in  
18 roughly the same format.

19           MR. LEDLIE: Paragraph (d) through  
20 (l), for the record.

21           MR. GOLDSTEIN: Thank you.

22           MR. LEDLIE: Unless you are going  
23 on.

24          Q.       That was on the top of 18.

25           Fair to say that all the

1       prescriptions, according to this indictment,  
2       all the prescriptions contained in those tables  
3       were not written for legitimate medical  
4       purpose?

5           A.       Yes, fair to say.

6           Q.       You can put that document aside. I  
7       just have a few more questions.

8                   Your work in the TDS -- with  
9       respect to your work in the TDS, can you  
10      describe the general command structure of your  
11      unit?

12           A.       Yeah. There is members of the TDS  
13      from local jurisdictions and from the DEA.  
14      There is a GS, a group supervisor, who we  
15      report to, and then there is an ASAC above  
16      that, a RAC and an ASAC that are just senior  
17      level management, supervisors, but my group  
18      supervisor is my immediate supervisor.

19           Q.       And do you have an understanding of  
20      who within the general command structure is  
21      responsible for setting the priorities of your  
22      unit?

23           A.       My group supervisor decides what we  
24      do.

25           Q.       Have there been -- strike that.

Page 322

1                   At a high level, you agree with the  
2 priorities of your unit, as set forth by your  
3 supervisor?

4                   MR. BENNETT: Objection. You are  
5 not authorized to express personal opinions  
6 that rely on nonpublic facts or information.  
7 To the extent you have a personal opinion that  
8 does not use public facts or information to  
9 answer that question, you are authorized to  
10 answer that.

11                  A. I do not have a public opinion.

12                  Q. I hand you what has been marked  
13 Exhibit 27.

14                                 - - - - -

15                                 (Thereupon, Deposition Exhibit 27,  
16                                 Newspaper Article Concerning Dr.  
17                                 Gregory Ingram, was marked for  
18                                 purposes of identification.)

19   - - - - -

20                  A. Yes.

21                  Q. Do you see this is a press release  
22 about Dr. Gregory Ingram?

23                  A. Yes.

24                  MR. BENNETT: Objection.

25 Mischaracterizes the exhibit. My

1 understanding, this is an article written by  
2 Eric Heisig for Cleveland.com. It is not a  
3 press release from the Department of Justice.

4 MR. GOLDSTEIN: Thank you. I  
5 misspoke. I misspoke. It is not a press  
6 release, so thank you for the clarification.

7 Q. Fair to say this is a newspaper  
8 article written about Dr. Gregory Ingram?

9 A. Yes, that's fair to say.

10 Q. And if you look at the -- do you  
11 recall testifying about Dr. Ingram earlier  
12 today?

13 A. I do.

14 Q. And you recall testifying that Dr.  
15 Ingram's case was the one case you could think  
16 of in which the opinion of a medical  
17 professional was not necessary for the  
18 prosecution of that case?

19 A. Yes, sir.

20 Q. If you look at the first sentence,  
21 "A former Akron doctor was sentenced Tuesday to  
22 one year in prison for prescribing painkillers  
23 to strip club dancers and their friends in  
24 exchange for money and sexual favors"; do you  
25 see that?

1           A.       I do.

2           Q.       And then it says Dr. Ingram was  
3                   that prescriber that it is referring to; is  
4                   that right?

5           A.       Yes, it does.

6           Q.       And are those statements accurate?

7                   MR. BENNETT: Objection. This is  
8                   beyond the scope of his authorization to  
9                   disclose specific information. To the extent  
10                  this was disclosed by the United States to the  
11                  Federal District Court, you are authorized to  
12                  answer it.

13                  To the extent that this is a report  
14                  by Cleveland.com that you are unaware whether  
15                  those facts have been disclosed publicly by the  
16                  United States, you are not authorized to  
17                  answer.

18           A.       I'm not aware of whether the U.S.  
19                  public court disclosed this or dot com. So I  
20                  don't know the answer.

21           Q.       Okay. You testified that Dr.  
22                  Ingram was charged and convicted; is that  
23                  right?

24           A.       Yes, sir.

25           Q.       And there was an indictment filed

1       in connection with those charges, presumably?

2           A.       Yes, sir.

3           Q.       And are you aware of generally the  
4       contents of that indictment?

5           A.       Yes, I am.

6           Q.       And are you aware that the  
7       indictment is a public document?

8           A.       I am.

9           Q.       And did that indictment, as far as  
10      you are aware, contain information  
11      corroborating the statements here that Dr.  
12      Ingram was sentenced for prescribing  
13      painkillers to strip club dancers and their  
14      friends in exchange for money and sexual  
15      favors?

16           MR. LEDLIE: You are authorized to  
17      answer based on the indictment, if you know.

18           A.       Yes.

19           Q.       And is that the reason why the  
20      opinion of a medical professional was not part  
21      of the prosecution of his case, without  
22      disclosing any information you have and any  
23      nonpublic information related to the  
24      prosecution?

25           MR. BENNETT: Objection. To the

1 extent that that calls for the internal  
2 deliberations and prosecutorial discretion of  
3 the United States, you are not authorized to  
4 answer.

5 MR. LEDLIE: I'll object to the  
6 form.

7 Q. Based on your personal knowledge.

8 A. I don't really have any personal  
9 knowledge on this case, except what is my  
10 professional knowledge on this case, because it  
11 was entirely my case. So it was all in the  
12 scope of my TDS employment.

13 Q. I think we can move on.

14 MR. GOLDSTEIN: Let's go off the  
15 record for two minutes.

16 (Recess taken.)

17 Q. Det. Leonard, what drugs are  
18 more -- thank you, Det. Leonard. Just a few  
19 more questions today.

20 What drugs are more commonly seized  
21 in your county than other Ohio counties, if  
22 any?

23 A. I don't normally seize the drugs.  
24 Most of the drugs I deal with are on paper,  
25 they have already been dispensed and used, so

Page 327

1 I'm not really seizing the actual prescription  
2 pills themselves.

3 Q. Do you know which drugs are most  
4 heavily used and abused within these counties,  
5 which illegal drugs, I should say?

6 A. Which illegal drugs?

7 Q. Correct.

8 A. Heroin and fentanyl, marijuana.

9 Q. In any particular order?

10 A. I wouldn't know which order. Those  
11 are the ones that are abused the most, illicit  
12 drugs, cocaine.

13 I don't work -- the only reason I  
14 know that is from other agents in my Akron  
15 Police Department office, the cases that they  
16 are working. I don't work illicit cases. So I  
17 don't handle a lot of those drugs.

18 Q. Do you have an understanding of how  
19 often any of those particular drugs are seized  
20 within the TDS jurisdiction?

21 MR. LEDLIE: Object to the form of  
22 the question.

23 MR. BENNETT: And I object to the  
24 extent that you are asking for DEA cases. I  
25 understood you asking Akron and things like

1           that.

2           Q.       Let me strike the question.

3                   Are there -- do you have any  
4                   understanding of how often illegal drugs are  
5                   seized in the counties in Northern Ohio?

6           MR. LEDLIE: Object to the form of  
7           it.

8           A.       Our patrol units seize drugs every  
9           day. Obviously, not in large quantities  
10           everyday, but drugs are seized and tagged into  
11           evidence on a daily basis.

12          Q.       Do you have an understanding of  
13           whether any particular illegal drug that you  
14           just discussed is most commonly related to  
15           violent crime in Northeastern Ohio?

16          A.       It would only be my assumption and  
17           my guess, so, no, I can't gave you an accurate  
18           answer to that question.

19          Q.       Do you have a sense of whether use  
20           of prescription opioids versus use of illegal  
21           drugs, whether one of those is more commonly  
22           associated with violent crime in Northeastern  
23           Ohio?

24          MR. LEDLIE: Object to the form of  
25           the question.

1           A.       No, I really don't have a feel for  
2       which one would be -- which would be a bigger  
3       problem, violent-wise.

4           Q.       In connection with your work in the  
5       Akron Police Department, are you aware of any  
6       grants that your department has received that  
7       relate to the investigation of illegal drug  
8       use?

9           A.       We discussed earlier that I had one  
10      grant from the Ohio Attorney General's Office  
11      that assisted in the funding of the Dr. Harper  
12      investigation. Our grant writers, I know they  
13      work tirelessly trying to find available funds.  
14      I don't know what all they have received and  
15      where they went.

16           Q.       Putting that grant aside -- strike  
17      that.

18                   I'm going to show you what has been  
19      marked as Exhibit 28.

20                   - - - - -

21                   (Thereupon, Deposition Exhibit 28,  
22      Designated Confidential, National  
23      Diversion Survey Questionnaire,  
24      Beginning with Bates AKRON  
25      000370688, was marked for purposes

1 of identification.)

2 | -----

3 Q. Do you recognize this document?

4 A. I do.

Q. What is it?

## A. A National Diversions Survey

7 Questionnaire that I fill out on a quarterly  
8 basis.

9 Q. And you fill out the information  
10 with your duties on the Akron Police  
11 Department?

12 A. I do.

13 Q. And why are you the person in the  
14 Akron Police Department that fills this out?

15 MR. LEDLIE: Object to the form of  
16 the question. Calls for speculation.

17                   A.         Because I investigate the  
18         prescription investigations.

19 Q. Who is the recipient? Do you know  
20 who the recipient of this information is?

21                   A.       I do. It is the Nova Southeastern  
22 University that does this study.

Q. Do you have an understanding of why they are seeking this information?

25 A. I understand they are trying to see

1       what medications are abused and in what  
2       frequency, how many numbers they have. I don't  
3       know their overall end goal or their end game  
4       on it.

5           Q.     Understood. If you turn to the  
6       page 3 of this document, there is a list. On  
7       the left-hand column, there is a list of drugs  
8       diverted or allegedly diverted, and the next  
9       column over is the number of cases in which the  
10      drug is mentioned; do you see that?

11          A.     I do.

12          Q.     And I take it you are the one that  
13       populates the second column, the number of  
14       cases in which the drug is mentioned?

15          A.     I do.

16          Q.     And what do you populate that  
17       column based on?

18          A.     On active investigations that I  
19       have either started or -- started that quarter.

20          Q.     And are these investigations that  
21       are limited only to Akron Police Department or  
22       are they also DEA?

23          A.     These are Akron Police Department,  
24       within the zip codes of the City of Akron.

25          Q.     So fair to say this does not --

Page 332

1 completing this questionnaire does not relate  
2 in any way to the work on TDS?

3 A. Correct.

4 Q. If you take a look through the  
5 column the Number of Cases, you see there is  
6 two for Adderall, there is two for  
7 Benzodiazepine, there is four for Codeine; do  
8 you see that?

9 A. I do.

10 Q. If you turn to the next page, you  
11 see that there are two cases related to Vicodin  
12 tablets?

13 A. Yes.

14 Q. On the next page, there is a three  
15 cases related to Percocet?

16 A. Yes.

17 Q. The next page there is one case  
18 related to Ultram?

19 A. Yes.

20 Q. And do you have any reason to doubt  
21 the accuracy of those figures?

22 A. No.

23 Q. Turn to the last page.

24 A. Okay.

25 Q. It says, "Other Drug Trends:

1           Illicit Drugs: Heroin Cases"?

2           A.       Yes.

3           Q.       And then the far left column asks,  
4           it says, "During the past three months, how  
5           many new heroin cases were opened by your  
6           department?" and the number of cases here is  
7           listed as 57?

8           A.       That's correct.

9           Q.       And do you have any reason to doubt  
10          those figures?

11          A.       I do not.

12          Q.       If you look at the last box on this  
13          document, did you populate that -- did you  
14          respond to that question?

15          A.       I did.

16          Q.       And do you have any reason to doubt  
17          any of the information contained there?

18          A.       I do not.

19          Q.       And how did you go about completing  
20          this question -- or responding to this  
21          question?

22          A.       I took down that the new ongoing  
23          drug trends for the promethazine with codeine.  
24          The 57 heroin cases, I get that information  
25          from the two detectives that work the heroin

Page 334

1       overdose cases. Those are their numbers. And  
2       then the other amounts are what the oxycodone  
3       products generally sell for, about a dollar a  
4       milligram in the area, two milligrams Xanax  
5       bars. These are just prices that -- street  
6       values of the narcotics.

7           Q.       Was this information that was all  
8       provided by APD investigators?

9           A.       Yes.

10          Q.       So Det. Leonard, with respect to  
11       Exhibit 28, are any of the cases that were  
12       described, either the heroin cases or the cases  
13       related to diversion, cases that you were  
14       personally working on?

15          A.       Yes. The diversion cases.

16          Q.       Okay. But they were cases that  
17       were not also DEA cases as part of the TDS?

18            MR. LEDLIE: Objection. To the  
19       extent that requires you to disclose what  
20       investigations you are doing for the DEA, you  
21       are not authorized to answer that. I believe  
22       you indicated that these were Akron cases and  
23       Akron numbers, and they were cases that were  
24       open in Akron.

25            So we would not have an objection

Page 335

1       to you answering on behalf of Akron, but you  
2       would not be able to comment regarding --

3                     THE WITNESS: Okay.

4             A.       Can I ask him a question for a  
5       second?

6             MR. LEDLIE: I have a question  
7       about this, because I have your interest as  
8       well.

9             MR. BENNETT: Can we go off the  
10      record to talk about privilege?

11            MR. GOLDSTEIN: Sure.

12            MR. BENNETT: Thank you.

13            (Recess taken.)

14            MR. GOLDSTEIN: Back on the record.

15            MR. BENNETT: Counsel, after having  
16       a chance to confer with the witness, to the  
17       extent that all, some, or none of these cases  
18       were also opened as a DEA case, the witness is  
19       not authorized to answer any questions  
20       regarding whether they were or were not also  
21       opened as DEA cases. He is only allowed to  
22       answer on behalf of Akron in the cases opened  
23       in Akron.

24            MR. GOLDSTEIN: Okay. In that  
25       case, I don't have any first questions on that

1 document.

2 Q. This is, mercifully, the last  
3 document of the day.

4 - - - - -

5 (Thereupon, Deposition Exhibit 29,  
6 Designated Confidential, 7-25-2011  
7 Email, Beginning with Bates AKRON  
8 000368263, was marked for purposes  
9 of identification.)

10 - - - - -

11 Q. Handing you Exhibit 29, do you  
12 recognize this document?

13 A. I do.

14 Q. What is it?

15 A. It is an email from Ashley Frank  
16 Summit County Courthouse.

17 Q. I believe you testified earlier who  
18 Ashley Frank is -- maybe not. I'll strike  
19 that.

20 Who is Ashley Frank?

21 A. I believe Ashley works for Summit  
22 County Court for the drug court. Yeah, she  
23 works for drug court. That was a different  
24 Ashley we talked about earlier.

25 Q. Thank you. Ashley Williams?

Page 337

1 A. Yes.

2 Q. And if you look at the middle of  
3 the page, it looks like Ashley is asking you if  
4 the individual referenced here would be a  
5 candidate for drug court; is that accurate?

6 A. Yes. That appears what she is  
7 asking, yes.

8 Q. And she says, "I ran his OARRS  
9 again"; do you see that in the second sentence?

10 A. I do.

11 Q. And then if you look down, there is  
12 a list of over a dozen entries; do you see  
13 that?

14 A. I do see that.

15 Q. And what is your understanding of  
16 those entries that are listed, starting from  
17 March 15 to June 28?

18 A. They are a list of narcotics, drugs  
19 that this individual filled during that  
20 timeframe.

21 Q. And is this information that was  
22 obtained through the OARRS database?

23 A. It appears that it was, yes.

24 Q. And it looks like this individual  
25 obtained prescription opioids from several

1 different sources listed here?

2 A. I'm sorry. Say that again. I was  
3 reading.

4 Q. It looks like there were several  
5 different sources of the prescription opioids  
6 that this individual received?

7 A. Are you talking about prescribers?

8 Q. Correct.

9 A. Yes. There are multiple  
10 prescribers, to include Akron General and  
11 Summa.

12 Q. Okay. Prescribers and dispensers,  
13 to the extent --

14 A. I don't have dispensers on mine. I  
15 just have the physicians. I don't have any  
16 pharmacies listed.

17 Q. Okay. So these would have referred  
18 to -- where it says from Summa, that would  
19 refer to a prescription written by a Summa  
20 physician?

21 A. More than likely an emergency room  
22 physician, yes, but again, it doesn't say that  
23 either.

24 Q. And is this type of information the  
25 type of information that you would typically

Page 339

1       look to obtain when using the OARRS database in  
2       the course of your investigations prior to  
3       2012?

4                   MR. LEDLIE: Objection. To the  
5       extent that you are asking for how he  
6       investigates, the tools and techniques how he  
7       investigates the cases prior to 2012, law  
8       enforcement privilege.

9                   You can answer as to public legally  
10      available information, not subject to --

11       A.       I don't know that there is any  
12      public information. This all would have been  
13      through my law enforcement information. So I  
14      don't know that I can answer that question.

15       Q.       Have you ever -- strike that.

16                   You have run -- you have looked for  
17      this type of information through -- you have  
18      looked to obtain this type of information  
19      through OARRS in the course of your diversion  
20      investigations prior to 2012, correct?

21       A.       Yes.

22       Q.       And why was it important to your --  
23      is it important information to your  
24      investigations?

25       A.       It is.

1 Q. And why is that?

2 MR. LEDLIE: Now I would object as  
3 to why you are going into how a -- police  
4 investigation privilege. If you are asking  
5 about how he conducts his investigation, why  
6 that would be important, but he's already  
7 talked about OARRS extensively.

8 Q. Maybe I'll ask it this way:

9 Setting aside whether it is important or not,  
10 why do you -- why would you be interested in  
11 this information from the OARRS database?

12 A. I mean, that's -- for no other  
13 reason except for law enforcement information,  
14 I wouldn't use the OARRS database, so that  
15 would all fall under how I do and why I do the  
16 prescription investigations. So I don't know  
17 if I can answer that without going into the law  
18 enforcement privilege.

19 Q. The number of prescriptions that  
20 were written, that are set forth here, are all  
21 to the same individual, correct?

22 A. Yes.

23 Q. And is that consistent with  
24 diversion?

25 A. Yes.

Page 341

1 Q. And why is that?

2 A. Multiple prescriptions in a short  
3 timeframe, a doctor shopper.

4 Q. Does that suggest they were not  
5 obtained for a legitimate medical purpose?

6 A. Yes.

7 MR. GOLDSTEIN: I have nothing  
8 further. I would just note that we reserve the  
9 right to re-open this deposition subject to  
10 some of the positions taken today by counsel  
11 for the plaintiffs and for the government, and  
12 that we would also reserve the right to seek  
13 additional Touhy authorization from this  
14 witness.

15 MR. ROMAN: I actually would  
16 quarrel with the phrasing of that. I don't  
17 think we are re-opening that. I think we are  
18 not closing this deposition.

19 The objections and instructions  
20 have been, in our view, improperly overbroad,  
21 and we reserve all rights, so we do not close  
22 this deposition.

23 MR. MOYLAN: Before we go into  
24 ending statements, I have just a couple more  
25 questions with respect to Exhibit 29.

1 EXAMINATION OF PATRICK LEONARD

2 BY MR. MOYLAN:

3 Q. If you know, detective, do certain  
4 hospitals in the Akron area or the Cleveland  
5 area have pharmacies located on site?

6 A. They do.

7 Q. Do you know if Summa Health  
8 operates retail pharmacies on site?

9 A. They have a pharmacy on site. I  
10 don't know if it is retail or not.

11 Q. I'm going direct your attention to  
12 a website, and I'm going to read the address  
13 into the record, [www.SummaHealth.org](http://www.SummaHealth.org), and there  
14 is a page for retail pharmacy services. I'm  
15 going to show you this website.

16 I'm going to ask if you have any  
17 reason, if you look at that information, to  
18 doubt the accuracy of it?

19 A. No, I don't have any reason to  
20 doubt the accuracy.

21 MR. MOYLAN: That's all the  
22 questions I have. Thank you.

23 MR. ROMAN: With that, I think we  
24 are done for the day, detective.

25 MR. LEDLIE: I'm not done.

Page 343

1                  MR. ROMAN: Sorry.

2                  MR. LEDLIE: First of all, as to  
3  whether or not this deposition is open or not,  
4  this is the second day of deposition of Det.  
5  Leonard. Many of these issues could have been  
6  sorted out if counsel had worked with the  
7  government more.

8                  I know that we were not -- the  
9  government has already identified that many of  
10 these documents were not provided, and we have  
11 come close. I don't have, unless our court  
12 reporter can give us a total, but we are very  
13 nearly at the seven hour mark, and so I  
14 understand everybody's position for the record,  
15 but we are not in agreement that this  
16 deposition is open.

17                I believe this deposition is  
18 closed. If you have additional questions to  
19 ask today, please do so, otherwise, we will not  
20 agree to this deposition being open.

21                MR. ROMAN: Your position is noted.

22                MR. GOLDSTEIN: Do you have any  
23 questions?

24                MR. LEDLIE: No. I'm not going to  
25 ask any questions. Other than to say thank

Page 344

1       you.

2                   MR. GOLDSTEIN: Thank you.

3                   MR. LEDLIE: We do not waive  
4       signature.

5                   (Deposition concluded at 5:44 p.m.)

6                   - - - - -

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Page 345

1 Whereupon, counsel was requested to give  
2 instruction regarding the witness's review of  
3 the transcript pursuant to the Civil Rules.

4

5

SIGNATURE :

6

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TRANSCRIPT DELIVERY:

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**REPORTER'S CERTIFICATE**

The State of Ohio, )

ss :

County of Cuyahoga. )

I, Wendy L. Klauss, a Notary Public  
within and for the State of Ohio, duly  
commissioned and qualified, do hereby certify  
that the within named witness, PATRICK LEONARD,  
was by me first duly sworn to testify the  
truth, the whole truth and nothing but the  
truth in the cause aforesaid; that the  
testimony then given by the above-referenced  
witness was by me reduced to stenotypy in the  
presence of said witness; afterwards  
transcribed, and that the foregoing is a true  
and correct transcription of the testimony so  
given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

Page 347

I do further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the event of this action.

5                           IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 2nd day of  
8 April, 2019.

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Wendy L. Klauss, Notary Public  
within and for the State of Ohio

My commission expires July 13, 2019.

Page 348

Veritext Legal Solutions  
1100 Superior Ave  
Suite 1820  
Cleveland, Ohio 44114  
Phone: 216-523-1313

April 2, 2019

To: James Ledlie

Case Name: In Re: National Prescription Opiate Litigation v.

Veritext Reference Number: 3272305

Witness: Patrick Leonard, Vol II Deposition Date: 3/27/2019

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness

review the transcript and note any changes or corrections on the

one reason for the change. Have the witness's signature recited and

forward the completed page(s) back to us at the Production address shown

above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of

this letter, the reading and signing will be deemed waived.

Sincerely,

## Production Department

NO NOTARY REQUIRED IN CA

1 DEPOSITION REVIEW  
2 CERTIFICATION OF WITNESS

3 ASSIGNMENT REFERENCE NO: 3272305

4 CASE NAME: In Re: National Prescription Opiate Litigation v.

5 DATE OF DEPOSITION: 3/27/2019

6 WITNESS' NAME: Patrick Leonard, Vol II

7 In accordance with the Rules of Civil  
8 Procedure, I have read the entire transcript of  
9 my testimony or it has been read to me.

10 I have made no changes to the testimony  
11 as transcribed by the court reporter.

12 \_\_\_\_\_ Date Patrick Leonard, Vol II

13 Sworn to and subscribed before me, a  
14 Notary Public in and for the State and County,  
15 the referenced witness did personally appear  
16 and acknowledge that:

17 They have read the transcript;  
18 They signed the foregoing Sworn  
19 Statement; and  
20 Their execution of this Statement is of  
21 their free act and deed.

22 I have affixed my name and official seal  
23 this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
24

25 \_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
Commission Expiration Date

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3272305

CASE NAME: In Re: National Prescription Opiate Litigation v.

DATE OF DEPOSITION: 3/27/2019

WITNESS' NAME: Patrick Leonard, Vol II

In accordance with the Rules of Civil

Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn

Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal  
this              day of                          , 20

## Notary Public

**Commission Expiration Date**

Page 351

1 ERRATA SHEET

2 VERITEXT LEGAL SOLUTIONS MIDWEST

3 ASSIGNMENT NO: 3/27/2019

4 PAGE/LINE(S) / CHANGE /REASON

5 \_\_\_\_\_

6 \_\_\_\_\_

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18 \_\_\_\_\_

20 Date Patrick Leonard, Vol II

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_

22 DAY OF \_\_\_\_\_, 20\_\_\_\_\_. \_\_\_\_\_

23 Notary Public

25 Commission Expiration Date

Veritext Legal Solutions

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888-391-3376

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).